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Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association

Addendum

Observations on communications transmitted to Governments and replies received*

* Reproduced as received.

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I. Introduction

1. The present document is submitted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolution 24/5. The document provides observations on the communications addressed by the Special Rapporteur to States, and on the replies received.

2. In the present addendum, the Special Rapporteur provides observations, on communications sent to States between 1 March 2016 and 28 February 2017. This report further contains observations on responses to the aforementioned communications received from States until 30 April 2017. The addendum also includes press releases issued between 1 May 2016 and 30 April 2017. Communications sent and responses received during the reporting period are accessible electronically through the hyperlink below. The Special Rapporteur is aware of responses received after the reporting deadline that could not be reflected in the present report. He takes this opportunity to highlight the importance of timely replies.

3. For ease of reference, cases have been grouped by region, with countries within each region listed alphabetically according to their names in English. Each communication is referenced as an urgent appeal (UA), joint urgent appeal (JUA), allegation letter (AL), joint allegation letter (JAL), or other letter (OL), followed by the date the communication was issued, the case number and the date of the State reply. The communications included in this report and the replies received from the concerned States, respectively, can be consulted on the following webpage https://spcommreports.ohchr.org. Press releases (PR) sent during the period are also included in the report.

4. The Special Rapporteur is grateful to all States that have transmitted responses to communications sent. He considers response to his communications an important part of cooperation by States with his mandate. In this context, the Special Rapporteur recalls paragraph 6 of the Human Rights Council resolution 24/5 that calls upon States "to continue to cooperate fully with and assist him in the performance of his mandate [and] to respond promptly to his urgent appeals and other communications…" Therefore, he urges all States which have not yet replied to his communications to do so without further delay.

II. Summary

5. Between 1 March 2016 and 28 February 2017, the Special Rapporteur sent 183 communications to 67 States. Of these communications, 89 were urgent appeals, 83 were allegation letters and 11 were other letters. Over the period, the Special Rapporteur sent 67 press releases.

6. Examined by region, the figures show that 47 communications were addressed to countries in the Africa region (25.7 per cent), 30 to countries in the Americas region (16.4 per cent), 51 in the Asia-Pacific region (27.8 per cent), 18 in the Europe and Central Asia region (9.8 per cent), and 37 in the Middle East and North Africa region (20.2 per cent).

7. During the reporting period, there was an average response-rate of 48 per cent to the Special Rapporteur's communications. While certain replies were merely acknowledgements or receipt, the Special Rapporteur wishes to thank countries who have fully engaged and cooperated with the Special Procedures mechanisms and provided detailed information in response to the allegations addressed therein.

8. The Special Rapporteur sent 38 communications on alleged violations of the right to peaceful assembly and 87 on the right to freely associate, while 58 communications refer to both rights. Moreover, 36 of his communications concern alleged failure of States' positive obligations to establish and maintain an enabling environment for civil society and to actively protect peaceful assemblies, 74 communications concern alleged violations of States of their negative obligations to not unduly obstruct the exercise of the right to freedom of association and to not unduly interfere with the right to peaceful assembly, and 73 communications concern alleged violations of both obligations. Out of the 183

communications sent during the reporting period, 16 concern laws and draft laws and 105 are follow-ups to cases previously addressed by the Special Procedures.

9. Moreover, the Special Rapporteur sent 19 communications concerning alleged acts of intimidation and reprisals against civil society activists for their cooperation with the United Nations, its representatives and mechanisms in the field of human rights. During the reporting period, he sent communications about alleged acts of reprisals to the following countries: Bahrain, Burundi, Colombia, Cuba, Ecuador, Iraq, Israel, Japan, Marocco, Oman, Somalia, Thailand and Uganda. In this context, the Special Rapporteur wishes to reiterate that the Human Rights Council, in resolution 22/6, strongly called upon all States to "refrain from, and ensure adequate protection from, any act of intimidation or reprisals against those who cooperate, have cooperated or seek to cooperate with international institutions, including their family members and associates". Furthermore, he recalls that in resolution 24/24, the Human Rights Council urges all States to prevent and refrain from all acts of intimidation or reprisal against those who seek to cooperate of have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them. The resolution also urges States to ensure accountability for any acts of such intimidation or reprisal. The United Nations Secretary-General, in his 2014 report to the Human Rights Council on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, reminds that it is primarily the obligation of States to protect those who cooperate with the United Nations and to ensure that they may do so safely and without hindrance. He urged to "collectively denounce reprisals, defend the rights to cooperate freely with the United Nations and protect those targeted" (A/HRC/27/28).

III. Africa Region

10. During the present reporting period, the Special Rapporteur sent 47 communications to countries in the Africa region. He takes note of the response rate of 12.5 per cent for the region. He strongly urges States who have not responded to communications to do so without further delay, as part of their continuous dialogue and cooperation with the Special Procedures of the Human Rights Council and in line with resolution 24/5 (2013).

11. The Special Rapporteur is disappointed to note the confirmation of trends already observed in his last observation report regarding the growing restriction of civic space in the context of elections. The most alarming attacks on the rights to freedom of peaceful assembly and association can be viewed against a background of the absence of a conducive environment for the holding of free, transparent and fair elections. In particular, during the present reporting period, an alarming number of heads of States have extended their mandate term, refusing to handover political power. In this context, Governments have used excessive force to crack down on protests sparking across the continent that demand the holding of democratic elections and power handovers. The harsh repression of protests led to numerous extra-judicial casualties, arbitrary arrests and detentions.

12. Similarly, the Rapporteur is outraged at information he received concerning the repression of the rights to freedom of expression and association. Numerous activists have been subjected to extra-judicial killings, enforced disappearances, arbitrary arrests and detentions, poor conditions of detention, ill treatment often amounting to torture, as well as judicial harassment and unfair trials. Many associations have been banned or suspended over the period. Political and human rights associations that express dissenting views from the Government are most commonly targeted.

13. The Special Rapporteur recalls that the rights to freedom of peaceful assembly and association are essential in the context of political transitions, especially since they empower individuals to express their political opinions, engage in public affairs and hold their leaders accountable (A/68/299). Moreover, he reaffirms that the rights to freedom of peaceful assembly and of association are crucial cornerstones for the possible emergence and sustainability of effective democratic systems. In this regard, States should therefore make every effort to facilitate and protect peaceful protests and associations.

Burundi

14. JUA Case no: BDI 5/2016 State reply: None Allégations d'actes d'intimidation et de menaces contre des défenseurs des droits de l'homme au Burundi suite à leur rencontre avec des experts indépendants mandatés par les Nations Unies pour s'enquérir de la situation des droits de l'homme dans le pays. Ces faits constitueraient des actes de représailles tels que définis dans les résolutions 12/2 et 24/24 du Conseil des droits de l'homme.

15. JUA Case no: BDI 1/2017 State reply: None Allégations relatives aux mesures de suspension provisoires et de radiation de la liste des ONG autorisées à travailler au Burundi de plusieurs organisations de la société civile burundaise, en particulier, la radiation définitive de la Ligue ITEKA, organisation membre de la FIDH.

Observations

Réponses aux communications

16. Le Rapporteur spécial regrette qu'au moment de la finalisation du présent rapport, aucune réponse n'ait été transmise à ses communications. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, conformément aux résolutions 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme. Il encourage le Gouvernement à répondre aux communications envoyées.

Environnement dans lequel les droits sont exercés

17. Le Rapporteur spécial regrette que, malgré les nombreux appels de plusieurs instances des Nations Unies, dont le Bureau du Haut-Commissariat aux droits de l'Homme des Nations Unies, dont un appel lancé dans un communiqué de presse publié le 6 février 2017 par plusieurs rapporteurs spéciaux, la situation des droits de l'Homme au Burundi ne cesse de s'aggraver depuis plus d'un an et demi. Un climat général délétère rend l'exercice des droits à la liberté d'expression et la liberté d'association pratiquement impossible.

18. Le Rapporteur se dit inquiet face à l'adoption par l'Assemblée Nationale, les 23 et 28 décembre 2016, de deux projets de loi qui viseraient à encadrer étroitement l'action des ONG locales et internationales. Cette nouvelle législation oblige les ONG locales à obtenir l'autorisation du ministre de l'Intérieur pour toute activité, à faire transiter les fonds d'origine étrangère par la Banque centrale, tandis que les ONG étrangères doivent se conformer aux priorités définies par le Gouvernement.

19. Le 19 octobre 2016, cinq organisations de la société civile ont été radiées par les autorités burundaises : le Forum pour le renforcement de la société civile (FORSC), le Forum pour la conscience et le développement (FOCODE), Action chrétienne pour l'abolition de la torture (ACAT), l'Association burundaise pour la protection des droits humains et des personnes détenues (APRODH), et le Réseau des citoyens probes (RCP) (BDI 1/2017). De même, en décembre 2016, la Ligue ITEKA, l'une des principales organisations de défense des droits humains du pays, suspendue en octobre, ainsi que l'OLUFAD - ONG de promotion de la bonne gouvernance et de lutte contre la corruption - ont également été interdites. Par ailleurs, quatre autres organisations : SOS-Torture/Burundi, Coalition de la société civile pour le monitoring électorale (COSOME), Coalition burundaise pour la CPI (CB-CPI), Union burundaise des journalistes (UBJ) sont toujours suspendues à ce jour.

20. Le Rapporteur Spécial réitère ses préoccupations quant au fait que la législation adoptée, et les mesures prises contre plusieurs organisations témoignent d'une politique volontariste instaurée par les autorités pour museler les droits à la liberté d'expression et d'association des organisations de la société civile dans le pays.

21. Ce constat est corroboré par la situation critique des défenseurs des droits de l'homme au Burundi, victimes d'intimidations, de menaces, de torture et de disparitions forcées de la part des forces de sécurité burundaises. Il s'inquiète des informations reçues

selon lesquelles, depuis la période pré-électorale de 2015, la plupart des principaux militants de la société civile et de nombreux journalistes indépendants sont en exil, après avoir reçu des menaces gouvernementales répétées et des mandats d'arrêt contre plusieurs d'entre eux. Il rappelle que Mme Kwizera, ancienne trésorière de la Ligue ITEKA, est toujours porté disparue à ce jour (BDI 1/2017). Il se dit également hautement préoccupé per les mesures de représailles contre des défenseurs des droits de l'homme au Burundi suite à leur rencontre avec des experts indépendants mandatés par les Nations Unies pour s'enquérir de la situation des droits de l'homme dans le pays en mars 2016 (BDI 5/2016), qui n'est qu'une illustration supplémentaire du contexte de répression imposé par le Gouvernement.

22. Il rappelle que toute restriction aux droits à la liberté d'expression, de réunion pacifique et d'association doit se conformer aux dispositions du PIDCP ratifié par le Burundi le 9 mai 1990. Le Rapporteur spécial rappelle également les résolutions 24/5 et 15/21 du Conseil des droits de l'homme qui consacrent la responsabilité des Etats de respecter et protéger pleinement les droits de réunion pacifique et d'association de tous les individus.

23. Le Rapporteur spécial réitère son appel aux autorités burundaises à mettre fin au climat d'impunité qui prévaut actuellement dans le pays, ainsi qu'à rétablir les droits fondamentaux tels que les droits à la liberté d'expression et à la liberté d'association (PR du 6 Février 2017).

Cameroon

24. JAL Case no. CMR 1/2016 State reply: None Allégations de nombreuses procédures judiciaires et condamnations d'un défenseur des droits de l'homme qui pourraient constituer une forme de harcèlement judiciaire.

25. JUA Case no. CMR 2/2016 State reply: 21/01/2017, 12/04/2017 Informations reçues concernant des allégations de torture, d'usage excessif de la force par les forces de l'ordre ainsi que de violations des libertés de réunion pacifique et d'expression, lors de manifestations s'étant déroulées depuis novembre 2016, et, en particulier, le 8 décembre 2016 à Bamenda.

26. JUA Case no. CMR 3/2017 State reply: None Allégations concernant la détention arbitraire alléguée de M. Felix Agbor-Balla Nkongho

Observations

Réponses aux communications

27. Le Rapporteur spécial remercie le Gouvernement pour les informations fournies en réponse à sa lettre du 16 décembre 2016 (CMR 2/2016). Il regrette cependant ne pas avoir reçu de réponse aux autres communications et rappelle l'obligation des Etats de coopérer avec son mandat en vertu des résolutions 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme.

Environnement dans lequel les droits sont exercés

28. Le Rapporteur Spécial reste fortement préoccupé concernant la situation du droit à la liberté de réunion pacifique au Cameroun, notamment dans le nord-ouest et le sud-ouest du pays où réside une grande partie de la communauté anglophone (CMR 2/2016). Le Rapporteur prend note de la réponse du Gouvernement en date du 12 avril 2017, concernant l'action des autorités camerounaises en faveur de la promotion du bilinguisme et de la non-discrimination de la communauté anglophone. Il encourage le Gouvernement du Cameroun à continuer sur cette voie, tout en restant préoccupé par la situation de discrimination de la population anglophone.

29. Il reste inquiet au regard des nombreuses arrestations d'individus suite aux manifestations s'étant déroulées depuis novembre 2016, et, en particulier, le 8 décembre 2016 à Bamenda, notamment en vertu de la Loi No 2014/028 du 23 décembre 2014 portant

répression des actes de terrorisme prévoyant, dans certains cas, la peine de mort. Dans ce cadre, il se dit préoccupé concernant l'arrestation arbitraire de M. Nkongho, président de l'Association des avocats du Département du Fako, dans la région du sud-ouest et président du « Cameroon Anglophone Civil Society Consortium », à Buea le 17 janvier 2017. Le Rapporteur réitère ses inquiétudes quant au fait que bon nombre des accusations graves qui seraient portées contre lui semblent disproportionnées et sans rapport avec les actes dont il est accusé.

30. Le Rapporteur reste préoccupé face aux informations indiquant que la police a utilisé des tirs à balles réelles pour disperser les manifestants, entraînant la mort d'au moins quatre personnes, que des dizaines d'autres personnes ont été blessées, arbitrairement arrêtées et auraient été torturées. Concernant les allégations de violences des manifestants au cours des manifestations, le Rapporteur Spécial rappelle que, si l'Etat a l'obligation de protéger la sécurité des citoyens, il ne doit en aucun cas faire un usage excessif de la force. Il invite le Gouvernement camerounais à se référer Rapport conjoint du Rapporteur spécial sur le droit de réunion pacifique et la liberté d'association et du Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires concernant la bonne gestion des rassemblements (A/HRC/31/66). Le rapport indique que les responsables du maintien de l'ordre devraient recourir à la force seulement lorsque cela est strictement nécessaire et les rassemblements devraient généralement être gérés sans emploi de la force. Tout usage de la force doit respecter les principes de nécessité et de proportionnalité (A/HRC/31/66, par. 57). Par ailleurs, il rappelle que les armes à feu ne devraient jamais être employées dans le seul but de disperser un rassemblement ; les tirs aveugles dans la foule ne sont jamais autorisés (voir A/HRC/26/36, par.75). Le recours intentionnel à la force meurtrière n'est admis que s'il est absolument inévitable pour sauver la vie d'une personne face à une menace imminente (ibid., par.70).

31. Il réitère son appel fait aux autorités camerounaises, en date du 21 décembre 2016 (PR), de mener une enquête approfondie sur l'utilisation de la force contre les manifestants ces derniers mois et à faire preuve de la plus grande retenue dans la surveillance des futures manifestations.

32. Enfin, le Rapporteur spécial exprime ses inquiétudes quant d'arrestation, de détention arbitraire et d'acharnement judiciaire à l'encontre des défenseurs des droits de l'homme et notamment de M. Nasako Besingi, directeur de l'organisation non-gouvernementale Struggle to Economize Future Environment (SEFE) (CMR 1/2016). Ces arrestations, détentions et acharnement judiciaires sont qu'une indication supplémentaire du climat de répression de la société civile au Cameroun. Le Rapporteur s'inquiète de l'impact négatif de ces mesures – qui apparaissent comme une forme d'intimidation contre des défenseurs des droits de l'homme – et qui pourraient les dissuader de mener leurs activités légitimes en faveur de la protection et de la promotion des droits de l'homme.

33. Le Rapporteur spécial rappelle les autorités que les droits à la liberté d'association et de réunion pacifique ne peuvent être limités que dans des cas clairement déterminés, tel que prévus aux articles 21 et 22 du Pacte international relatif aux droits civils et politiques. Le Rapporteur spécial rappelle également les résolutions 24/5 et 15/21 du Conseil des droits de l'homme qui consacrent la responsabilité des Etats de respecter et protéger pleinement les droits de réunion pacifique et d'association de tous les individus.

Chad

34. JAL case no. TCD 1/2016 State reply: None Allégations relatives à l'arrestation de quatre dirigeants de la société civile et défenseurs des droitts de l'homme.

35. JUA case no. TCD 2/2016 State reply: None Informations reçues concernant des allégations de disparitions forcées, d'arrestations et de détentions arbitraires, de traitements cruels, inhumains et dégradants et de violation des droits à la liberté de réunion pacifique et la liberté d'expression commises par les forces de sécurité et de défense tchadiennes.

36. JAL case no. TCD 3/2016 State reply: None "nformations reçues relatives au blocage de l'accès aux réseaux sociaux et aux applicatiions mobiles, ainsi qu'à d'autres perturbations d'internet et des services de télécommunicatiions.

Observations

Réponses aux communications

37. Le Rapporteur spécial regrette qu'au moment de la finalisation du présent rapport, aucune réponse n'ait été reçue concernant les communications envoyées pendant la période couverte par le présent rapport. . Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, conformément aux résolutions 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme. Il encourage le Gouvernement à répondre aux communications envoyées.

Environnement dans lequel les droits sont exercés

38. Le Rapporteur est également préoccupé par l'annonce faite par les autorités d'interdire les manifestations publiques mais aussi par l'usage excessif de la force par les forces de sécurité tchadienne pour disperser les manifestations à N'Djamena, en février 2016, liées à l'opposition des manifestants à la candidature à un cinquième mandat du Président Idriss Déby (TCD 2/2016).

39. Il exprime ses vives inquiétudes quant aux allégations de disparitions forcées, d'arrestations et de détentions arbitraires, de mauvais traitements, de restrictions aux droits à la liberté de réunion pacifique et d'expression des défenseurs des droits de l'homme et des opposants politiques.

40. Dans ce cadre le Rapporteur spécial exprime ses inquiétudes au regard de l'arrestation de défenseurs des droits de l'homme M. Mahamat Nour Ahmed Ibedou, M. Younous Mahadjir, M. Nadjo Kaina Palmer et Mme Céline Narmadji, suite à leur appel pour une manifestation pacifique contre la candidature du Président Idriss Deby dans le cadre de sa réélection à la présidentielle du 10 avril 2016, entre le 21 et le 23 mars 2016 (TCD 1/2016).

41. Le Rapporteur est vivement préoccupé par le fait que l'arrestation de ces activistes puisse avoir un effet dissuasif et d'intimidation pour les autres militants associatifs et politiques au Tchad. Il exhorte les autorités à prendre toutes les mesures nécessaires pour assurer que les individus arrêtés, et plus particulièrement, tous les défenseurs des droits de l'homme, puissent exercer librement leur droit à la liberté d'expression, d'association et de réunion pacifique sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement. Il rappelle qu'en période électorale, les droits à la liberté de réunion pacifique et d'association sont essentiels pour pérenniser la démocratie et l'état de droit (A/68/299).

42. Il se dit enfin préoccupé par le blocage de l'accès aux réseaux sociaux et aux applications mobiles, ainsi qu'à d'autres perturbations d'internet et des services de télécommunications depuis février 2016 (TCD 3/2016) qui sont une illustration supplémentaire des autorités tchadiennes de museler toute forme d'opposition au pouvoir.

43. Le Rapporteur spécial rappelle que toute restriction aux droits à la liberté d'expression et de réunion pacifique doit se conformer aux dispositions du PIDCP ratifié par Tchad le 9 juin 1995. Le Rapporteur spécial rappelle également les résolutions 24/5 et 15/21 du Conseil des droits de l'homme qui consacrent la responsabilité des Etats de respecter et protéger pleinement les droits de réunion pacifique et d'association de tous les individus. Il rappelle enfin que les droits à la liberté d'association, de manifestation pacifique et d'expression jouent un rôle central dans le contexte des élections, en raison de la possible exacerbation des vulnérabilités liée aux processus électoraux (A/68/299).

Congo (the Republic of)

44. JUA Case no. COG 1/2016 State reply: None Allégations quant à l'arrestation et la détention arbitraire du Président du parti politique d'opposition « Unis pour le Congo » (UPC).

45. JUA COG 2/2016 State reply: None Allégations relatives à l'arrestation et la détention arbitraire de M. Paulin Makaya, Président du parti d'opposition « Unis pour le Congo » (UPC).

Observations

Réponses aux communications

46. Le Rapporteur spécial regrette qu'au moment de la finalisation du présent rapport, aucune réponse n'ait été transmise à ses communications. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, conformément aux résolutions 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme. Il encourage le Gouvernement à répondre aux communications envoyées.

Environnement dans lequel les droits sont exercés

47. Le Rapporteur spécial réitère ses inquiétudes quant au contexte de répression des partis d'opposition au Congo. Suite aux résultats des élections présidentielles du 20 mars 2016, remportées par le Président Sassou Nguesso, et rejetées par une partie de l'opposition, les autorités congolaises auraient mené une série d'arrestations contre des personnalités de l'opposition, les accusant de compromettre la « sécurité nationale ». C'est dans ce cadre que M. Makaya, président du parti d'opposition « Unis pour le Congo » (UPC) (COG 1/2016 et COG 2/2016), M. Modeste Boukadia (COG /2017), président du parti du Cercle des Démocrates et Républicains du Congo (CDRC), ainsi que d'autres membres de partis politiques, auraient été arrêtés et placés en détention pour avoir organisé des manifestations pacifiques dans plusieurs villes congolaises. En effet, en octobre 2015, plusieurs réunions pacifiques auraient eu lieu afin de protester contre un projet de référendum constitutionnel souhaité par le Président de la République du Congo visant à opérer un changement de la Constitution en vigueur prévoyant notamment la possibilité pour le Président de la République de se présenter pour un troisième mandat.

48. Le Rapporteur exprime son inquiétude concernant la confirmation, en mars 2017, par la Cour d'appel, du jugement rendu en première instance condamnant M. Makaya à deux ans de prison ferme pour « incitation à l'ordre public ».

49. Le Rapporteur spécial regrette profondément que la répression des manifestations ainsi que le harcèlement judiciaire et les allégations de traitements inhumains et dégradants des opposants politiques, puissent contribuer à créer un climat de crainte et produire un effet délétère sur l'exercice des droits de l'homme et des libertés publiques au Congo, en particulier sur l'exercice des droits à la liberté d'expression, de manifestation et d'association.

50. Il rappelle que toute restriction aux droits à la liberté d'expression, de réunion pacifique et d'association doit se conformer aux dispositions du PIDCP ratifié par le Congo le 5 octobre 1983. Le Rapporteur spécial souligne également les résolutions 24/5 et 15/21 du Conseil des droits de l'homme qui consacrent la responsabilité des Etats de respecter et protéger pleinement les droits de réunion pacifique et d'association de tous les individus. Le Rapporteur spécial trouve opportun de rappeler que, selon la Déclaration sur le droit et la responsabilité des individus, groupes et organes de la société de promouvoir et de protéger les droits de l'homme et les libertés, l'État porte la responsabilité principale de protéger, promouvoir et rendre effectifs tous les droits de l'homme et toutes les libertés fondamentales.

51. Il exhorte les autorités à prendre toutes les mesures nécessaires pour assurer que les individus et plus spécifiquement, tous les opposants politiques au Congo, puissent exercer

librement leur droit à la liberté d'expression, d'association et de réunion pacifique sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement. Il demande aux autorités congolaises de diligenter une enquête sur les violations des droits de l'homme susmentionnées et de lui communiquer les résultats de celles-ci dans un délai raisonnable.

Democratic Republic of Congo

52. JUA Case no. COD 3/2016 State reply: None Allégations de détention arbitraire, de torture et de mauvais traitement d'un défenseur des droits de l'homme en République démocratique du Congo.

53. JAL Case no. COD 2/2016 State reply: None Allégation d'exécution extrajudiciaire d'un défenseur des droits de l'homme par des membres de la Police Nationale Congolaise.

54. JAL Case no. COD 4/2016 State reply: None Informations reçues concernant des allégations d'arrestations d'opposants politiques, y compris, de restrictions indues du droit de réunion pacifique et d'usage excessif de la force dans le cadre de plusieurs manifestations, en majorité pacifiques organisées les 26, 27 et 28 mai 2016.

55. JAL Case no. COD 5/2016 State reply: None Informations reçues concernant des allégations d'arrestation et de détention arbitraire de deux membres de la Lutte pour le Changement (LUCHA) M. Bienvenu Matumo et M. Marcel Heritier Kambale Kapitene, ainsi que de M. Victor Tesongo

56. JUA Case no. COD 7/2016 State reply: Informations reçues concernant des allégations d'usage excessif de la force par les forces de l'ordre ainsi que de violations des libertés de réunion pacifique et d'expression, lors de manifestations s'étant déroulées les 19 et 20 septembre 2016.

57. JUA Case no. COD 8/2016 State reply: None Informations reçues concernant des décisions portant sur l'interdiction de manifestations dans plusieurs villes du pays, dont la capitale, Kinshasa, ainsi que la possible mise en place d'un régime de restrictions pour les organisations de la société civile et les défenseurs des droits de l'homme.

58. JUA Case no. COD 9/2016 State reply: 21/12/2016 Allégations d'arrestation et de détention arbitraires de cinq individus de la Lutte pour le Changement (LUCHA) et d'une journaliste, ainsi que sur le climat général délétère instauré par les autorités congolaise vis-à-vis de la société civile, dans le contexte du recul du calendrier électoral permettant au Président Kabila de rester au pouvoir malgré l'arrivée à échéance de son mandat.

Observations

Réponses aux communications

59. Le Rapporteur spécial remercie le Gouvernement pour les informations fournies en réponse à sa lettre du 16 décembre 2016 (COD 9/2016). Il regrette cependant ne pas avoir reçu de réponse aux autres communications et rappelle l'obligation des Etats de coopérer avec son mandat en vertu des résolutions 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme.

Environnement dans lequel les droits sont exercés

60. Le Rapporteur spécial exprime ses plus hautes inquiétudes quant à la recrudescence manifeste du climat de répression généralisée observé en République Démocratique du Congo (RDC) depuis janvier 2015, s'étant accélérée depuis mai 2016. Son appel aux autorités congolaises a fait l'objet de quatre communiqués de presse au cours de la période couverte par le présent rapport : le 23 septembre 2016, le 3 novembre 2016, le 1er décembre 2016 et le 20 décembre 2016.

61. Le Rapporteur réitère ses préoccupations face aux inquiétantes violations des droits de l'homme enregistrées dans le pays, notamment, depuis mai 2016 et l'arrêt de la Cour Constitutionnelle permettant au Président actuel, Joseph Kabila, de rester au pouvoir à la fin

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de son mandat au cas ou les élections ne seraient pas organisées dans les délais constitutionnels. Cette décision a déclenché de nombreuses manifestations, réprimées dans la violence engendrant des centaines d'exécutions extrajudiciaires par les forces de l'ordre, en particulier la Police Nationale Congolaise (PNC), des centaines d'arrestations et de détentions arbitraires, d'opposants politiques (COD 4/2016, COD 7/2016 et COD 9/2016). Nous remercions les autorités congolaises pour leur réponse à la communication COD 9/2016, dans laquelle il est fait état des actes de violences perpétrés par certains manifestants au cours des manifestations du 19 et 20 septembre 2016. Néanmoins, nous restons préoccupés face aux restrictions au droit à la liberté de réunion pacifique imposées en RDC et regrettons que cette réponse ne réponde pas aux questions soulevées dans la lettre, en particulier, à celles concernant l'arrestation et la détention arbitraires de cinq individus de la Lutte pour le Changement (LUCHA) et d'une journaliste.

62. Il rappelle que la capacité de se rassembler et d'agir collectivement est fondamentale pour le développement démocratique, économique, social et personnel, l'expression des idées et la promotion d'une citoyenneté engagée. Les réunions peuvent contribuer utilement au renforcement des systèmes démocratiques et, parallèlement aux élections, jouent un rôle fondamental dans la participation de la population en plaçant les gouvernements face à leurs responsabilités et en permettant l'expression de la volonté du peuple dans le cadre des processus démocratiques(A/HRC/31/66, par. 5).

63. Concernant l'usage de la force au cours des rassemblements, il rappelle que l'Etat a l'obligation de présumer que les manifestations sont pacifiques. Il invite le Gouvernement à se référer Rapport conjoint du Rapporteur spécial sur le droit de réunion pacifique et la liberté d'association et du Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires concernant la bonne gestion des rassemblements (A/HRC/31/66). Les responsables du maintien de l'ordre devraient recourir à la force seulement lorsque cela est strictement nécessaire et les rassemblements devraient généralement être gérés sans emploi de la force. Tout usage de la force doit respecter les principes de nécessité et de proportionnalité (A/HRC/31/66, par. 57).

64. Par ailleurs, le Rapporteur exprime ses préoccupations quant à l'espace de plus en plus réduit accordé à la société civile dans le pays, notamment quant au harcèlement constant envers les défenseurs des droits de l'homme et les partis d'opposition qui sont l'objet de détentions, d'arrestations arbitraires et de mauvais traitements (COD 3/2016 et COD 2/2016). En particulier, les autorités auraient ciblé certaines organisations citoyennes telles que Lucha et Filimbi (COD 5/2016 et COD 9/2016). Il réitère ses graves préoccupations quant à l'interdiction des manifestations dans la ville de Kinshasa et dans plusieurs autres villes du pays (COD 8/2016).

65. Le musellement de la société civile par la répression ciblée des dissidents, les strictes limites imposées sur les manifestations et l'usage excessive de la force par les forces de l'ordre au cours des rassemblements pacifiques, ainsi que d'autres mesures observées, telles que les coupures internet, indiquent la mise en place d'une politique répressive, en violation flagrante du PIDCP, et, en particulier, des articles 19, 21 et 22 prévoyant, respectivement, les droits à la liberté d'expression, à la liberté de manifestation pacifique et à la liberté d'association. Ces droits ne peuvent être limités que dans des cas clairement limités par ces articles et doivent être l'objet d'un test de proportionnalité.

66. Le Rapporteur spécial rappelle également les résolutions 24/5 et 15/21 du Conseil des droits de l'homme qui consacrent la responsabilité des Etats de respecter et protéger pleinement les droits de réunion pacifique et d'association de tous les individus. Il rappelle enfin que les droits à la liberté d'association, de manifestation pacifique et d'expression jouent un rôle central dans le contexte des élections, en raison de la possible exacerbation des vulnérabilités liée aux processus électoraux (A/68/299).

67. Enfin, le Rapporteur exprime ses vives inquiétudes en ce qui concerne l'accord de dialogue national, qui, risque de restreindre davantage les activités légitimes menées par la société civile. Il appelle les autorités congolaises à convoquer des élections avant la fin de l'année et à cesser immédiatement les violations des droits de l'homme susmentionnées.

Ethiopia

68. JUA Case no. ETH 2/2016 State reply: None Information received concerning the alleged killing of at least 500 people, and the injury, detention and enforced disappearance of thousands of individuals in the context of protests organized in Ethiopia, particularly in the Oromia and Amhara regions, since November 2015.

69. JUA Case no. ETH 5/2016 State reply: None Information received concerning the repression of protests in Ethiopia that has been ongoing since November 2015, especially in the Oromia and Amhara regions.

70. JUA Case no. ETH 6/2016 State reply: None Information received concerning the wide restrictions imposed by the state of emergency decree declared on 9 October 2016, which severely affects the right to freedom of expression, and the right to freedom of peaceful assembly in Ethiopia.

Observations

Responses to communications

71. The Special Rapporteur regrets not having received a response to his communications. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

72. The Special Rapporteur reiterates his utmost concerns regarding the reported repression of peaceful protests by security forces and military special forces, especially in the Oromia, Amhara and Konso Wereda regions, leading to allegations of over 600 deaths, thousands of injuries, tens of thousands of arrests and hundreds of enforced disappearances since November 2015.

73. The Special Rapporteur also stresses his serious concern regarding Proclamation No. 652/2009 on Anti-Terrorism, adopted on 28 August 2009. The extremely broad and ambiguous definition of terrorism provided in Proclamation 652/2009 has been extensively used against protestors, without excluding other individuals such as journalists or any other dissenters, who are labelled as "suspected terrorists", "encouraging terrorists" (art.6) or "being part of a terrorist organization" (art.7) . The Proclamation has permitted the use of unrestrained force against such individuals, including pre-trial detention, having the effect of criminalizing peaceful protests, infringing upon the rights to freedom of peaceful assembly and freedom of expression.

74. He also reiterates his concerns regarding the state of emergency declared on 9 October 2016. The state of emergency decree provides for a wide range of range of repressive measures, particularly regarding the right to freedom of expression and freedom of association and assembly rights (ETH 6/2016).

75. The Special Rapporteur emphasizes that the right to life should be guaranteed by States to all individuals under all circumstances and at all times, including in the context of the exercise of the rights to freedom of association and of peaceful assembly, as prescribed by article 6 of the ICCPR ratified by Ethiopia on 11 June 1993.

76. He recalls that any restriction on the rights to freedom of expression, peaceful assembly and association must comply with the provisions of articles 19, 21 and 22 of the ICCPR. The Special Rapporteur also recalls resolutions 24/5 and 15/21, which affirm the responsibility of States to respect and fully protect the rights of peaceful assembly and association of all individuals.

77. In addition, he recalls the importance of ensuring a free and unhampered enjoyment of the right to assembly and protest to build peaceful and democratic societies. He finally recalls that the use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. Any use

of force must comply with the principles of necessity and proportionality (A/HRC/31/66, par. 57).

78. To this end, he urges the Government of Ethiopia to respect, protect and fulfil the right to peaceful assembly. He reminds the authorities of the Government of Ethiopia that protestors seek to convey opinions and, very often, challenge norms, and insists that while the State does not have to agree with the opinions and criticisms expressed by people who embrace different convictions or beliefs, it has a positive obligation to ensure the existence of an environment in which everyone can enjoy the right of peaceful assembly freely and without fear. The Special Rapporteur recommends that the Government establish a presumption in favour of peaceful assemblies in the law in a clear and explicit manner.

79. He also asks the Ethiopian authorities to repeal the decree on the state of emergency and reform Proclamation No. 652/2009. In light of the scale of violence exerted against protestors, the Special Rapporteur reiterates his call for the Government to allow an international commission of inquiry to investigate the violence used against peaceful demonstrators, including the alleged summary executions perpetrated since November 2015 (PR of 10 October 2016).

Country visit

80. The Special Rapporteur reminds the Government of Ethiopia of his country visit requests sent in 2011 and 2013, to which a response is yet to be received. He believes such a country visit may be an opportunity to discuss any technical assistance that the Government may require.

Gabon

81. JAL Case no. GAB 1/2016 State reply: 05/10/2016, 18/11/2016 Informations reçues concernant des allégations d'arrestation et de détention arbitraires survenues suite à l'annonce des résultats de l'élection présidentielle consacrant la victoire de M. Ali Bongo Ondimba face à M. Jean Ping.

Observations

Réponses aux communications

82. Le Rapporteur spécial remercie le Gouvernement pour les informations fournies en réponse à sa lettre du 29 septembre 2016 (GAB 1/2016). Nous prenons acte de la réponse fournie par les autorités soulevant que les manifestations qualifiées « attroupements », seraient devenues violentes et auraient par là même porté atteinte à l'ordre public, menant, entre autres, à des pillages.

Environnement dans lequel les droits sont exercés

83. Tout en regrettant les violences commises par certains individus au cours des manifestations en réaction aux résultats des élections, le Rapporteur spécial exprime de graves préoccupations quant aux allégations d'arrestation, plus de 700, et de détention arbitraires de manifestants ainsi que de défenseurs des droits de l'homme, mais aussi quant à l'usage excessif de la force dans le cadre des manifestations, notamment quant à l'usage de tirs à balles réelles, qui ont notamment conduit au décès de plusieurs personnes. Ces actions des autorités semblent être directement liées au statut d'opposants politiques de certains participants et à l'exercice de leur droit à la liberté de réunion pacifique et de leur droit à la liberté d'expression. Par ailleurs, le Rapporteur spécial se dit hautement inquiet au regard de récentes informations qu'il a reçues concernant l'émergence d'un contexte répressif contre la société civile, en particulier concernant la découverte de plusieurs fosses communes contenant les cadavres d'opposant politiques et autres activistes.

84. Le Rapporteur insiste sur le fait que les considérations de sécurité ne devraient pas être utilisées comme justification pour des règles ou des interprétations excessivement strictes qui annulent les droits à la liberté de réunion pacifique et d'association. Les

responsables du maintien de l'ordre devraient recourir à la force seulement lorsque cela est strictement nécessaire et les rassemblements devraient généralement être gérés sans emploi de la force. Tout usage de la force doit être exceptionnel et respecter les principes de nécessité et de proportionnalité (A/HRC/31/66, par. 57). Il rappelle enfin que les droits à la liberté d'association, de manifestation pacifique et d'expression jouent un rôle central dans le contexte des élections, en raison de la possible exacerbation des vulnérabilités liée aux processus électoraux (A/68/299).

85. Le Rapporteur spécial rappelle que toute restriction aux droits à la liberté d'expression et de réunion pacifique doit se conformer aux dispositions du PIDCP ratifié par le Gabon le 21 janvier 1983. Il souligne également que le droit à la vie prévu à l'article 6 du PIDCP est un droit intangible. Le Rapporteur spécial rappelle également les résolutions 24/5 et 15/21 du Conseil des droits de l'homme qui consacrent la responsabilité des États de respecter et protéger pleinement les droits de réunion pacifique et d'association de tous les individus.

86. Le Rapporteur spécial invite les autorités à se référer à l'Observation générale n° 31 du Comité des droits de l'homme qui rappelle la responsabilité des États parties de faire preuve de diligence pour prévenir, punir, enquêter et traduire les auteurs en justice ou réparer le préjudice causé par les acteurs non étatiques (CCPR/C/21/Rev.1/Add.13, paragraphes 8 et 18).

87. Il demande au Gouvernement du Gabon de respecter son obligation de procéder à des enquêtes approfondies, rapides et impartiales sur tous les cas soupçonnés d'exécutions extrajudiciaires, arbitraires et sommaires, conformément au principe 9 des Principes relatifs à la prévention et à l'investigation efficaces des exécutions extrajudiciaires, arbitraires et sommaires.

88. Eu égard à la violence et aux nombreuses graves restrictions aux droits à la liberté d'association et de réunion pacifique, y compris le harcèlement de défenseurs des droits de l'homme, constatées dans la période post-électorale depuis l'annonce de la victoire de M. Ali Bongo le 31 août 2016, il exhorte les autorités à faciliter l'organisation de manifestations pacifiques et à protéger activement les militants associatifs et politiques qui jouent un rôle majeur pour amorcer un dialogue entre les autorités et toutes les parties prenantes. Il appelle les autorités à respecter le droit à la liberté d'association et de réunion pacifique, qui constitue un vecteur indispensable pour préserver la paix et la stabilité au Gabon.

Gambia

89. JAL Case no. GMB 1/2016 State reply: Some Allegations of excessive use of force by Police Intervention Unit officers, as well as disappearances, torture and ill-treatment, in at least one case resulting in death, by National Intelligence agents against peaceful protesters.

90. JAL Case no. GMB 1/2017 State reply: Some Information received concerning restrictions on the right to freedom of expression in Gambia, including internet shutdowns, shutdowns of media outlets and arrests of journalists, in the run-up to and in the aftermath of the presidential elections.

Responses to communications

91. The Special Rapporteur regrets not having received a response to his communication GMB 1/2016. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which members of associations can exercise their rights

92. The Special Rapporteur reiterates his grave concern at the alleged death in police custody of Mr. Solo Sandeng, the excessive use of force by Police Intervention Unit officers against peaceful protesters, and the disappearances, torture and ill-treatment of

demonstrators taken into custody by National Intelligence agents. He stresses that these measures are likely to have a broader effect on the Gambian society as a whole, in particular their deterrent effect on the exercise of the rights to freedom of expression, peaceful assembly and association, and the right to peacefully take part in public affairs.

93. Similarly, the Rapporteur expresses serious concern at the total Internet shutdown and ban on international telephone calls prior to the presidential elections, representing a severe restriction on freedom of expression, stifling reporting on a matter of great public interest and limiting the public's right to information at a time where this was of particular importance (GMB 1/2017).

94. The Rapporteur reminds the State that the right to associate freely is an essential component of democracy, in particular during election periods and between elections (A/68/299, paragraph 5). He expresses similar concern at the chilling effect that the killing of a human rights defender and reported disappearance of a political figure may have on others who wish to exercise their right to peaceful assembly and to associate freely.

95. The Special Rapporteur emphasizes that the right to life should be guaranteed by States to all individuals under all circumstances and at all times, including in the context of the exercise of the rights to freedom of association and of peaceful assembly, as prescribed by article 6 of the ICCPR ratified by the Gambia on 22 March 1979.

96. He recalls that any restriction on the rights to freedom of expression, peaceful assembly and association must comply with the provisions of articles 19, 21 and 22 of the ICCPR. The Special Rapporteur also recalls resolutions 24/5 and 15 / 21, which affirm the responsibility of States to respect and fully protect the rights of peaceful assembly and association of all individuals.

97. Regarding the excessive use of force, the compilation of practical recommendations for the proper management of assemblies (A/HRC/31/66) recalls that the use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. Any use of force must comply with the principles of necessity and proportionality (para. 57).

98. In addition, he refers to the General Comment No. 31 of the Human Rights Committee that recalls the responsibility of State parties to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by non-state actors (CCPR/C/21/Rev.1/Add.13, paragraphs 8 and 18).

99. He calls upon the Government of the Gambia to respect its obligation to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions, in accordance with the principle 9 of the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. The Special Rapporteur further calls on the authorities to put in place a safe and enabling environment that is conducive to the free expression of civil society and the exercise of the right to freedom of association without undue hindrance in the Gambia. He further calls on the authorities to provide the result of investigations of the circumstances leading to the death of Mr. Sandeng, convict the perpetrators of this crime and provide reparation to his family.

Kenya

100. JUA Case no. KEN 3/2016 State reply: None Alleged violent repression of peaceful protests in different cities in Kenya. According to the information received, several peaceful demonstrations have been organized in different cities in Kenya by the Coalition for Reforms and Democracy (CORD), a coalition of different political parties, seeking removal of commissioners of the Independent Electoral and Boundaries Commission (IEBC).

101. JAL Case no. KEN 4/2016 State reply: None Information received concerning the alleged disappearance, torture and extra-judicial executions of a human rights lawyer, Mr. Willie Kimani, as well as Mr. Josephat Mwenda and Mr. Joseph Muiruri.

102. JUA Case no. KEN 5/2016 State reply: None Information received concerning the alleged violent repression of peaceful protests in Nairobi on 3 November 2016.

103. JUA Case no. KEN 6/2016 State reply: None Information received concerning the alleged arbitrary detention and judicial proceedings against ten human rights defenders: Mr. Ramadhan Mathenge, Mr. Charles Mwanzia, Mr. Justus Munyao, Mr. Fabian Ngure, Mr. Julius Kimondio, Mr. Frank Mbomani, Mr. Ambrose Hemed, Mr. Msafiri Mkillo, Mr. Julius Masuma and Mr. Peter Kithome, as well as the ongoing harrassment against Mr. Jasper Muruttu, reportedly in reaction to the legitimate exercise of their rights to freedom of expression and freedom of association in promoting land rights in Kenya.

104. JUA Case no. KEN 3/2017 State reply: None Information received regarding the deteriorating and detrimental environment hindering the legitimate and peaceful activities of civil society organizations in Kenya, including non-governmental organizations advocating for the protection and promotion of human rights, as well as the measures aimed at cancelling the registration and freezing of the bank accounts of the Kenya Human Rights Commission (KHRC).

105. JUA Case no. KEN 6/2017 State reply: None Information received concerning the alleged threats, intimidation and assaults against members of the Center for Justice Governance and Environmental Action (CJGEA) – Ms. Phyllis Omido, Mr. Alfred Ogola, Ms. Anastacia Nambo, Mr. Wilfred Kamencu – and their family members including the abduction of Mr. Kamencu's 12-year-old son.

Observations

Responses to communications

106. The Special Rapporteur regrets not having received a response to his communications. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010). In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communications.

Environment in which these rights are exercised

107. The Special Rapporteur reiterates his concerns regarding the crackdown implemented by Kenyan authorities over the past few months, occurring less than a year before the presidential elections to be held in August 2017.

108. The Special Rapporteur restates his utmost concern for the critical situation of the right to freedom of peaceful assembly in Kenya, as raised in communications KEN 3/2016 and KEN 5/2016. The Rapporteur considers the creation of an environment where opinions can be expressed peacefully key to avoiding a repetition of the wave of violence which followed the disputed presidential poll in 2007 (PR 10 November 2016). The Special Rapporteur reiterates his call for the Kenyan authorities to respect the demonstrators' fundamental rights at future protests.

109. The Special Rapporteur is further concerned by the reported repression of peaceful protests by security forces. He reiterates his dismay at the alleged excessive use of force during various protests, including the use of live ammunition, tear gas and water cannons against peaceful protestors, as well as violent beatings of individuals with batons. He also stresses his concerns regarding the numerous arrests and arbitrary detentions of protestors, as well as journalists, which took place in various cities. He recalls that the use of force by law enforcement officials should be exceptional, and assemblies should ordinarily be managed with no resort to force. Additionally, any use of force must comply with the principles of necessity and proportionality (A/HRC/31/66, para. 57).

110. The Special Rapporteur remains concerned about several cases brought to his attention during the period under review. Namely, he reiterates his concern about the alleged disappearance, torture and extra-judicial executions of a human rights lawyer, Mr. Willie Kimani, as well as Mr. Josephat Mwenda and Mr. Joseph Muiruri (KEN 4/2016). He

expresses additional serious concern regarding the fact that these actions were allegedly perpetrated by police forces and seem to be directly related to Mr. Kimani's legitimate work as a lawyer and human rights defender. The detention and judicial proceedings against ten human rights defenders (KEN 6/2016), allegedly in reaction to the legitimate exercise of their rights to freedom of expression and freedom of association in promoting land rights in Kenya, is another illustration of the restriction of civil space in the country. Finally, he is deeply concerned about the safety of the CJGEA members and their families who have peacefully campaigned to protect the Owino Uhuru community's environmental and human rights for years (KEN 6/2017).

111. As indicated in the communication sent on 6 February 2017 (KEN 3/2017), the Special Rapporteur warns against the recent Government circular accusing a large number of NGOs of posing a threat to national security and of being involved in money laundering and terrorism financing, as well as at what appears to be a lack of political will to create a favorable environment for civil society to work without hindrances, embodied by the continued prolongations of entry into force of the Public Benefit Organization (PBO) Act. The Special Rapporteur reminds the authorities of the Government of Kenya that a vibrant and strong civil society is a cornerstone for the stability of political institutions.

112. He recalls that any restriction on the rights to freedom of expression, peaceful assembly and association must comply with the provisions of article: 19, 21 and 22 of the ICCPR. The Special Rapporteur also recalls resolutions 24/5 and 15/21, which affirm the responsibility of States to respect and fully protect the rights of peaceful assembly and association of all individuals.

113. He urges the Government of Kenya to put in place an enabling environment for associations to operate safely and for protests to take place free from undue restrictions.

Country visit

114. The Special Rapporteur thanks the Government for its invitation to carry out a visit to the country during the second half of March 2016. He reiterates his appreciation to the Government for its collaboration with the mandate.

Mauritania

115. JUA Case no. MRT 1/2016 State reply: None Informations reçues concernant l'arrestation et la détention arbitraires, et allégations de torture et de mauvais traitements de vingt-trois personnes.

116. JUA Case no. MRT 2/2016 State reply: 19/10/2016 Informations reçues concernant la détention arbitraire et condamnation de défenseurs des droits de l'homme

Observations

Réponses aux communications

117. Le Rapporteur spécial remercie le Gouvernement pour les informations fournies en réponse à sa lettre du 2 août 2016 MRT 1/2016. Il regrette cependant ne pas avoir reçu de réponse à son autre communication et rappelle l'obligation des Etats de coopérer avec son mandat en vertu des résolutions 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme.

Environnement dans lequel les droits sont exercés

118. Le Rapporteur spécial prend note de la réponse du Gouvernement concernant la communication MRT 2/2016 affirmant que les allégations de torture infligés aux accusés par des membres des forces de l'ordre ne sont pas crédible, que la seule plainte déposée concernant les allégations de torture a été rejetée pour incompétence juridictionnelle, que le transfert des accusés devant la Cour d'Appel de Nouadhibou et à la prison centrale de Zouérate a été opéré conformément à la législation en vigueur, que les détenus ont reçu tous les soins de santé nécessaires et que le procès impliquant les accusés aurait rempli toutes les

conditions du procès équitable. Il prend note des allégations du Gouvernement concernant le fait que, d'après l'enquête diligentée dans cette affaire, un groupe d'individus - comprenant des membres de l'IRA - se seraient affronté directement avec les forces de l'ordre le 29 juin, lors de l'exécution d'une ordonnance d'expulsion par les forces de sécurité de de familles installées depuis quelques années sur un terrain privé du Ksar, au centre de la capitale Nouakchott. Enfin, il prend note des raisons justifiant le refus des autorités d'enregistrer l'IRA, organisation qui ne répondrait pas aux conditions prévues par la loi, dont les objectifs de promotion de « propagande ethnique ou raciale » seraient contraires à la Constitution.

119. Concernant les allégations de l'implication de plusieurs membres de l'IRA dans le cadre des manifestations, il souhaiterait un rapport détaillé indiquant de quelle manière ces personnes ont effectivement été impliquées dans des actes violents. Il convient que le droit international des droits de l'homme ne protège que les manifestations pacifiques. Néanmoins, il reste préoccupé par les peines infligées à certains accusés qui ne semblent pas proportionnelles aux faits allégués par les autorités.

120. Concernant le refus de l'enregistrement de l'IRA, le Rapporteur spécial souligne que le droit à la liberté d'association protège également les associations qui ne sont pas enregistrées. Les membres d'associations non enregistrées devraient effectivement être libres de mener toute activité, et notamment avoir le droit d'organiser des réunions pacifiques et d'y participer, sans s'exposer à des sanctions pénales. Ceci est particulièrement important lorsque la procédure de constitution d'une association est lourde et dépend du bon vouloir de l'administration, de sorte que la menace de sanctions pénales peut alors être utilisée pour réduire au silence les voix dissidentes (A/HRC/20/27, par. 56).

121. Le Rapporteur reste préoccupé par les mesures prises contre les membres de l'IRA et par le refus d'enregistrer l'organisation. Il rappelle que l'organisation et ses membres ont fait l'objet de nombreuses communications de la part des rapporteurs spéciaux, soulignant, entre autres, le harcèlement judiciaire, les allégations de torture et de mauvais traitements dont ils feraient l'objet. Il exprime ses inquiétudes quant au fait que ces mesures seraient le résultat de l'engagement de l'IRA pour la promotion et la protection des droits de l'homme en Mauritanie et notamment leur soutien à la cause anti-esclavagiste.

122. Il appelle les autorités mauritaniennes à mettre en place un environnement propice à la libre expression des droits à la liberté d'association et de manifestation pacifique en Mauritanie, dans le respect des articles 21 et 22 du PIDCP.

Mozambique

123. JAL Case no. MOZ 1/2016 State reply: None Alleged violations of the rights to life, freedom of expression and opinion. According to the information received, on 20 January 2016, Mr. Manuel Bissopo, leader of the Mozambican National Resistance (Renamo) was shot by unknown gunmen in Beira.

Observations

Responses to communications

124. The Special Rapporteur regrets not having received a response to his communications. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

125. The Special Rapporteur reiterates his serious concern regarding the attempted killing of Mr. Manuel Bissopo, leader of the Mozambican National Resistance (Renamo); the killing of his body guard in Beira; and the killing of Mr. Gilles Cistac, a professor of law at the University of Eduardo Mondlane, who was a central figure in a sensitive debate about autonomy for Mozambique's provinces and decentralization of power in Maputo. The

Special Rapporteur notes with regret that the alleged intimidation, death threats, and killings appear to be in direct connection with these individuals' political activities. He is concerned that these incidents may have a deterrent effect on the public debate on issues of significant public interest.

126. He recalls that any restriction on the rights to freedom of expression, peaceful assembly and association must comply with the provisions of articles 19, 21 and 22 of the ICCPR. The Special Rapporteur also recalls resolutions 24/5 and 15/21, which affirm the responsibility of States to respect and fully protect the rights of peaceful assembly and association of all individuals.

127. He urges the authorities of Mozambique to provide the results of investigations regarding the alleged threats and killings and to bring the perpetrators of these acts to justice. The Special Rapporteur also calls upon authorities to ensure that they take positive measures to establish and maintain an enabling environment for human rights. It is crucial that individuals, including notably unionists, exercising their rights are able to operate freely without fear that they may be subjected to any threats, acts of intimidation or violence, including summary or arbitrary executions, enforced or involuntary disappearances, arbitrary arrest or detention, torture or cruel, inhuman or degrading treatment or punishment, a media smear campaign, travel ban or arbitrary dismissal (A/HRC/20/27, par. 63).

Rwanda

128. JUA Case no. RWA 1/2016 State reply: 22/09/2016 Information received concerning allegations of expulsion and declaring of persona non grata Mr. Epimack Kwokwo.

Observations

Responses to communications

129. The Special Rapporteur thanks the Government for the information provided in its answer received on 23 September 2016. The Rapporteur takes note of the fact that Mr. Kwokwo was allegedly expelled due to his "repeated violation of migration laws" and not in relation to his work as a human rights defender. We also note that the authorities never questioned Mr. Kwokwo about his human rights activities but rather summoned him to regularize his stay in Rwanda, and that he was never considered persona non grata. He further notes the different measures put in place to ensure a safe environment for NGOs and human rights defenders in Rwanda.

Environment in which these rights are exercised

130. Nevertheless, the Special Rapporteur remains concerned about the measures taken against Mr. Kwokwo which seem to be related to his work as a human rights defender and related to the exercise of his rights to freedom of expression and freedom of association.

131. The Special Rapporteur recalls recommendations he made in his country visit report on Rwanda, particularly to "Ensure a conducive and safe environment for everyone exercising or seeking to exercise his or her rights to freedom of peaceful assembly and of association" and to " ensure that no one is criminalized for exercising the right to freedom of peaceful assembly and of association, nor subject to threats or use of violence, harassment, persecution, intimidation or reprisals » (A/HRC/26/29/Add.2, par. 86).

Country visit

132. The Special Rapporteur takes this opportunity to reiterate his thanks to the Government for the visit he undertook from 20 to 27 January 2014. He recalls the exemplary cooperation of the Government during the mission and remains grateful for its willingness to continue its efforts to engage in open and constructive dialogue.

Somalia

133. JUA Case no. SOM 1/2016 State reply: None Alleged infringement on the rights to freedom of association and freedom of expression of the Federation of Somali Trade Unions (FESTU) and the National Union of Somali Journalists (NUSOJ) and failure of Somali authorities to conduct investigations.

134. JUA Case no. SOM 2/2016 State reply: None Alleged acts of reprisal against the Secretary General of two Somali trade unions for his cooperation with the International Labour Organization (ILO). According to the information received, on 23 April 2016, Mr. Omar Faruk Osman, Secretary General of the Federation of Somali Trade Unions (FESTU) and the National Union of Somali Journalists (NUSOJ), was informed by the Office of the Attorney General that criminal charges had been brought against him in relation to a letter sent by the ILO to the Somali authorities.

Observations

Responses to communications

135. The Special Rapporteur regrets not having received a response to his communications. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

136. The Special Rapporteur is extremely concerned about allegations received regarding the situation of the Federation of Somali Trade Unions (FESTU) and the National Union of Somali Journalists (NUSOJ), members and leaders of which have been subject to death threats, acts of intimidation and reprisals, and failure of Somali authorities to investigate these allegations. Mr. Omar Faruk Osman, NUSOJ's Secretary-General and Mr. Abdiqani Sheik Mohamed, NUSOJ's Organizing Secretary, have been particularly targeted. The alleged violations took place despite the recommendations adopted by the International Labour Organization (ILO) on 11 November 2015, notably urging the Somali Government to "refrain from any further interference in the unions registered in Somalia with particular reference to the NUSOJ and FESTU".

137. On 4 May 2016, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Independent Expert on the situation of human rights in Somalia, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders urged the Government of Somalia to halt the continuous acts of intimidation and reprisals against members and leaders of two Somali trade unions, and to stop interfering in the unions' internal affairs and activities (PR). This statement followed a communication in which the Special Rapporteur reiterated his concerns regarding the situation of Mr. Omar Faruk (SOM 2/2016). In this communication, the Rapporteur expressed his concerns about acts of reprisals in the form of judicial harassment against Mr. Omar Faruk for his cooperation with the ILO. He also expressed concern at the allegation that the Government is conflating trade union activities and the legitimate exercise of the rights to freedom of expression and association with criminal activities and activities labelled as being against national security.

138. The Special Rapporteur stresses that reprisals against individuals for exercising their legitimate rights to freedom of expression and freedom of association are extremely serious and may cause a deep chilling effect on the work of trade unions in Somalia, which is also likely to have an effect on other sectors of Somalian civil society.

139. The Special Rapporteur wishes to highlight two landmark resolutions of the Human Rights Council: resolution 22/6, which provides for the right to "unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights", and resolution 24/24 calling on States to refrain from and ensure adequate protection from intimidation or reprisals for

cooperation with the United Nations, its mechanisms and representatives in the field of human rights.

140. He finally calls on the Government to conduct independent and thorough investigations into the aforementioned allegations, to hold perpetrators accountable and to provide the victims with full redress, without further delay. Moreover, he urges the State to take all necessary steps to secure the rights to freedom of association as per article 22 of the International Covenant on Civil and Political Rights acceded to by Somalia on 24 January 1990.

South Africa

141. JAL Case no. ZAF 1/2016 State reply: None Alleged assassination of an environmental human rights defender.

Observations

Responses to communications

142. The Special Rapporteur regrets not having received a response to his communication. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

143. The Special Rapporteur reiterates his concerns regarding the the assassination of Mr. Rhadebe, which appears to be directly related to his role as chair of the Amadiba Crisis Committee (ACC), his legitimate work in the promotion of human rights, the protection of the rights of the Xolobeni community in the Eastern Cape, and in this regard the exercise of his right to freedom of association and to freedom of expression in opposition to the mining operations in the area. The Special Rapporteur stresses that there is a pattern of acts of intimidation and violence and assassination of activists for expressing their opposition to the titanium mining operations in the Xolobeni area by Mineral Commodities Limited (MRC), a mining company registered in Australia, and its local subsidiary, Transworld Energy and Minerals (TEM). Mr. Rhadebe is the fifteenth opponent of the mining venture to be killed, including other members of ACC.

144. The Special Rapporteur emphasizes that the right to life should be guaranteed by States to all individuals under all circumstances and at all times, including in the context of the exercise of the rights to freedom of association and of peaceful assembly, as prescribed by article 6 of the ICCPR ratified by South Africa on 10 December 1998.

145. The Special Rapporteur believes that the rights to freedom of peaceful assembly and of association play a key role in opening up spaces and opportunities for genuine and effective engagement by civil society in decision-making processes across the spectrum of natural resource exploitation activities. These rights help foster increased transparency and accountability in the exploitation of resources and are basic prerequisites for the ultimate goal of securing substantive rights. Peaceful assembly and association rights can facilitate constructive dialogue, which is necessary given the shared interests and sometimes competing priorities that are intrinsic to exploiting natural resources (A/HRC/29/25, par 10).

146. He recalls that States are obligated to protect and facilitate the rights to freedom of peaceful assembly and of association in the context of natural resource exploitation, including by ensuring that business interests do not violate these rights. To discharge their duties in that respect, States should, among other things, enact robust national laws that stipulate the rights and responsibilities of all, create independent and effective enforcement, oversight and adjudicatory mechanisms, ensure effective remedies for violations of rights and promote awareness of, and access to information about, relevant policies and practices related to natural resource exploitation (A/HRC/29/25, par 14).

147. He urges the authorities to inform him of the results of the investigations of the circumstances leading to Mr. Rhadebe's death as soon as possible, as well as to open investigations, if none have already been opened, into the killings of the other human rights defenders.

Sudan (the)

148. JUA Case no. SDN 2/2016 State reply: None Alleged raid on a non-governmental organization's premises by State officials and detention and questioning of several members and affiliates of the organization.

149. JUA Case no. SDN 5/2016 State reply: None Alleged arbitrary detention and killing of several students protesting against the sale of university buildings in Sudan.

150. JUA Case no. SDN 6/2016 State reply: None Information concerning the imposition of the death penalty upon six members, including two women, of the Khartoum Centre for Training and Human Development (TRACKS), a civil society organization, allegedly in connection with their legitimate exercise of the rights to freedom of expression and association.

151. JUA Case no. SDN 9/2016 State reply: None Information received concerning allegations of arbitrary arrest and enforced disappearance of 24 Sudanese political activists and opponents by the Sudanese National Intelligence Service (NISS).

152. JUA Case no. SDN 1/2017 State reply: None Information received concerning the criminal charges brought against and trial of six human rights defenders, including two women, who are staff members and affiliates of the Centre for Training and Human Development (TRACKS), in part related to their possession and use of UN HRC documents.

Observations

Responses to communications

153. The Special Rapporteur regrets not having received a response to his communications. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

154. The Special Rapporteur is extremely worried at the alarming trend of restriction of civil space for civil society in the Sudan, especially at the crackdown on activists that seem to oppose or criticize the Government or that work in activities related to the protection and the promotion of human rights. He expresses concern at the reported arrest, arbitrary detention, torture and ill-treatment and judicial harassment of individuals for expressing their legitimate rights to freedom of expression, of freedom of association and of freedom of peaceful assembly. In particular, members and affiliates of the Centre for Training and Human Development (TRACKS) have been the object of multiple human rights violations as highlighted in communications SDN 2/2016, SDN 6/2016 and SDN 9/2016.

155. The Special Rapporteur reiterates his concerns regarding the alleged killing of several individuals, including Mr. Abubakar Hassan and Mr. Mohamed al-Sadiq Wayo, as well as the arrest of various other students in the context of several demonstrations held by students protesting against the sale of the university buildings in April 2016 (SDN 5/2016). He remains concerned about the excessive use of force by NISS officials, who allegedly fired indiscriminately into crowds, leading to the death of Mr. Abubakar Hassan and Mr. Mohamed al-Sadiq Wayo.

156. He calls on authorities of the Sudan to ensure that no one is subject to excessive or indiscriminate use of force, in the event that use of force is absolutely necessary. The Special Rapporteur also stresses the duty of the State to ensure that law enforcement

authorities who violate the right to peaceful assembly are held fully accountable for such violations by an independent oversight body and by the courts of law (A/HRC/20/27). He invites the Sudan to refer to the compilation of practical recommendations for the proper management of assemblies (A/HRC/31/66), which recalls that the use of force by law enforcement officials should be exceptional and assemblies should ordinarily be managed with no resort to force. Any use of force must comply with the principles of necessity and proportionality (para. 57).

157. He expresses his outrage at the arrest of 24 political activists and members of the Sudanese Congress Party, the Reform Now Movement, the National Consensus Forces (NCF) and the Congress of Independent Students in November 2016 (SDN 9/2016). The Rapporteur recalls that no one may be subject to arbitrary arrest or detention. In the context of assemblies this has particular import for the criminalization of assemblies and dissent. Arrest of protestors to prevent or punish the exercise of their right to freedom of peaceful assembly, for example on charges that are spurious, unreasonable or lack proportionality, violates these protections (A/HRC/31/66, par. 45).

158. Besides the communications alleging the involvement of NISS officers in the reported human rights violations, the Special Rapporteur received additional alarming allegations that NISS officials, and, in some cases other security forces, systematically target opposition political party members, human rights defenders, students, demonstrators and other activists, leading to numerous arbitrary arrests, arbitrary detentions, torture and ill-treatment of individuals in detention as well as various forms of harassment against these individuals. He urges the authorities to undertake independent and transparent investigations into the situation of the individuals mentioned in the communications sent and to bring all perpetrators to justice as well as to offer adequate redress to the victims.

159. He reminds the Government of the Sudan of its responsibility to guarantee an enabling environment for civil society activists to operate freely and without fear, as per article 22 of the ICCPR, acceded to by the country on 18 March 1986.

Togo

160. JUA Case no. TGO 1/2016 State reply: 22/08/2016 Allégations relatives à l'usage excessif de force par la police togolaise contre des manifestants qui aurait entrainé la mort de plusieurs d'entre eux, ainsi qu'à l'arrestation et la détention arbitraires de neuf personnes.

Observations

Réponses aux communications

161. Le Rapporteur spécial remercie le Gouvernement pour les informations détaillées, précises et substantielles sur les questions soulevées dans sa lettre d'appel urgent, reçues le 27 juillet 2016. Il prend note du fait que les manifestations s'étant déroulées en novembre 2015 n'avaient pas fait l'objet d'un accord préalable de la part des autorités et que ces manifestations, ainsi que celles de novembre, auraient été violentes, entrainant la mort de six manifestants, d'un commissaire de police, de centaines de blessés, ainsi que de l'arrestation de 54 personnes. En ce qui concerne les arrestations des membres de « One Bloc de Mango », il ont été arrêtés et inculpés pour plusieurs chefs d'accusation, dont, atteinte à la tranquillité publique, destructions et dégradations volontaires de bien publics et privés ainsi que pour violences.

Environnement dans lequel les droits sont exercés

162. Le Rapporteur Spécial rappelle que l'exercice des libertés fondamentales ne devrait pas être soumis à l'autorisation préalable des autorités, mais tout au plus à une procédure de notification préalable, ayant pour raison d'être de permettre aux autorités publiques de faciliter l'exercice du droit de réunion pacifique et de prendre des mesures pour protéger la sécurité et l'ordre publics et les droits et libertés du reste de la population (A/HRC/20/27, par. 28). Par ailleurs, le Rapporteur spécial souligne que les États ont l'obligation positive

de protéger activement les réunions pacifiques. Ils sont notamment tenus de protéger les participants aux réunions pacifiques contre les individus ou groupes d'individus, y compris les agents provocateurs et les contre-manifestants, qui ont pour objectif de perturber ou de disperser des réunions (A/HRC/20/27, par. 33).

163. Il demande aux autorités du Togo de fournir les résultats de l'enquête concernant la mort des manifestants tués au cours des manifestations, de punir les auteurs. Par ailleurs, il demande au Gouvernement de fournir des informations sur les allégations de torture et de mauvais traitement de Ousmane Naba, Mama Kakarafou, Rabiou Souleymane, Ablaye Cheregneme et Alimiyaou Abdou, alors qu'ils se trouvaient en détention, après avoir été arrêtés au cours des manifestations de novembre 2015.

164. Le Rapporteur spécial rappelle que toute restriction aux droits à la liberté de réunion pacifique (art. 21) et d'association (art. 22) doit se conformer aux dispositions du PIDCP ratifié le Togo le 24 mai 1984. Il rappelle également que l'interdiction de la torture (art. 7) et le droit à la vie (art. 6) sont des droits indélogeables.

Uganda

165. JUA Case no. UGA 2/2016 State reply: None Alleged acts of intimidation and reprisal against a human rights defender for his cooperation with the United Nations human rights mechanisms.

166. JAL Case no. UGA 3/2016 State reply: None Alleged arbitrary arrest and charging of a presidential candidate and a human rights defender in connection with political activities and activities in defence of human rights.

167. JAL Case no. UGA 5/2016 State reply: None Information received concerning alleged harassment, theft and intimidation against human rights defenders Mr. Edward Mwebaza, Ms. Patience Akumu, Ms. Elizabeth Kemingisha, Ms. Joaninne Nanyange and Mr. Adrian Jjuuko, members of the Human Rights Awareness and Promotion Forum (HRAPF), as well as the assassination of the organization's security guard.

168. JAL Case no. UGA 6/2016 State reply: None Information received concerning police raids during the "Uganda Pride" celebration between 2 August and 7 August 2016, the arrest of several human rights defenders and activists, and the assault of many participants.

Observations

Responses to communications

169. The Special Rapporteur regrets not having received a response to his communications. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

170. The Special Rapporteur is highly concerned about the situation of human rights defenders in Uganda. He regrets that despite his repeated calls to end the violation of human rights of activists, their situation remains critical. Severe violations of the rights to freedom of association, assembly, and expression continued during and after Uganda's February 2016 elections. He remains worried about the ongoing judicial harassment against Mr. Bulongo, which appears to be in reprisal for his cooperation with the United Nations, its representatives and mechanisms in the field of human rights (UGA 2/2016). He wishes to highlight Human Rights Council resolution 24/24 which calls on States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its mechanisms and representatives in the field of human rights and Human Rights Council resolution 22/6, which provides for the right to "unhindered access to and communication with international bodies, in particular the United Nations, its representatives and

mechanisms in the field of human rights, including the Human Rights Council, its Special Procedures, the Universal Periodic Review and the treaty bodies, as well as regional human rights mechanisms".

171. He is similarly worried about Mr. Kizze Besigye, member of the opposition party Forum for Democratic Change (FDC) and candidate in the presidential election, and Mr. Solomon Akugizibwe, a human rights defender working for the Association for Human Rights Organizations (AHURIO) (UGA 3/2016). Both individuals were arrested, detained and charged; Mr. Akugizibwe was monitoring demonstrations when he was charged with "disobeying lawful orders", , and Mr. Besigye was arrested for unlawfully declaring himself the winner of the February 2016 presidential election, and for having hosted his own swearing in ceremony in Kampala.

172. Mr. Edward Mwebaza, Ms. Patience Akumu, Ms. Elizabeth Kemingisha, Ms. Joaninne Nanyange and Mr. Adrian Jjuuko, members of the Human Rights Awareness and Promotion Forum (HRAPF) have all been allegedly intimidated and harassed for their activities as human rights defenders.

173. The Special Rapporteur reiterates his outrage at the excessive use of force, arbitrary arrests, detentions, cruel, inhuman and degrading treatment, including threats and intimidation against members of the LGBTI community and human rights defenders working for the protection of the rights of LGBTI people (UGA 6/2016).

174. All of these measures seem indicative of a worrying trend of cracking down on human rights defenders for exercising their legitimate rights to freedom of peaceful assembly, association and expression, having a chilling effect on Ugandan civil society as a whole.

175. He recalls Uganda's international obligations regarding articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Uganda on 21 June 1995, which respectively guarantee the right to freedom of opinion and expression, the right to freedom of peaceful assembly and association.

176. The Special Rapporteur urges Uganda to take steps to ensure that human rights defenders and civil society are able to operate free from any form of intimidation and harassment at all times, including by ensuring full protection of the rights of freedom of peaceful assembly, association, and expression.

177. The Special Rapporteur calls on States to pay particular attention to the plight of groups at risk, including LGBTI individuals. He stresses that the African Commission has adopted a resolution condemning violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity, including attacks by State actors, physical assaults, torture, arbitrary arrests and detention, particularly those targeting human rights defenders and civil society organizations working on issues of sexual orientation or gender identity in Africa (resolution 275 of the African Commission). In this regard, he asked asks that positive measures, including affirmative action initiatives, be taken to ensure that all individuals belonging to groups most at risk have the ability to effectively exercise their rights, including the rights to freedom of peaceful assembly and of association.

178. Finally, he urges the Government to take every possible measure to ensure an end to impunity for these violations, and hopes to promptly receive a response to his communications providing details of any investigation carried out in relation to these cases.

Country visits

179. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Uganda, as indicated by his letters sent on 23 September 2011 and 29 October 2013. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favorably his requests for visits.

III. Americas region

180. During the reporting period, the Special Rapporteur sent 30 communications to countries in the Americas region. A total of 14 communications were follow-ups to cases previously sent to the attention of the State concerned. He takes note that the response rate is 76.6 per cent for the Americas region.

181. During the reporting period, the Special Rapporteur has received substantial information regarding a context of persistent intimidation, harassment, harassment, violence and monitoring of activities by government officials against human rights defenders. Particularly worrying is the situation of environmental and land human rights defenders, individuals who are at risk against a backdrop of the activities of international companies, especially companies in the extractive industries. Considering the high rate of extrajudicial killings of environmental defenders, some parts of the Americas have become a place where it is impossible to exercise the rights to freedom of expression and association without fear of loss of life, particularly in the context of promotion and protection of environmental rights.

182. Taking into account the highly dangerous context for members of associations working for the promotion and protection of human rights, particularly environment and land rights, the Rapporteur stresses the importance of providing adequate protection for people at risk. He recalls that the lack of adequate compensation mechanisms for human rights violations related to the exploitation of natural resources can contribute to increasing social tensions, as communities do not know how to obtain redress through other channels (A/HRC/29/25, para. 35).

183. He is similarly worried at the continuous trend of restriction of the right to freedom of association in some countries, using restrictive legislation to limit associations' activities and even to suspend them in some cases. Moreover, he has also observed the restriction of the right to peaceful assembly during the period. In particular, security forces have used excessive force in the context of peaceful assemblies. In this context, the Special Rapporteur reminds States that the Human Rights Council stressed that peaceful protests should not be viewed as a threat and encourages the States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes (A/HRC/RES/22/10). In these circumstances the use of force should be a measure of last resort, bearing in mind that necessity and proportionality should be guiding principles.

Brazil

184. JAL Case no. BRA 6/2016 State reply: 21/02/2017 Information received concerning alleged killings, attempted killings, attacks, death threats and harassment against human rights defenders working on land-related rights, including women human rights defenders and indigenous leaders, in different States in Brazil.

Observations

Responses to communications

185. The Special Rapporteur thanks the Government for the information provided in its letter received on 21 February 2017. The Rapporteur takes note of the efforts deployed by Brazilian authorities to protect human rights defenders, including the National Policy for the Protection of Human Rights Defenders (PNPDDH) and the National Program for the Protection of the Human Rights Defenders (PPDDH). He considers these measures to be positive steps towards the achievement of the goals and principles set forth in the Declaration on Human Rights Defenders. He also takes note that the cases referenced in the communication were reported to the Special Secretariat for human rights and to the PPDH. He understands that a high number of allegations were contained in the communication sent but he nevertheless expects to receive comprehensive information regarding the specific cases mentioned, including further detail regarding those referenced in the answer provided by the authorities.

Environment in which these rights are exercised

186. The Special Rapporteur reiterates his concerns at the numerous cases of human rights violations against human rights defenders, including continued threats, including deaths threats, and other forms of intimidation and harassment. In particular, land rights, environmental and indigenous defenders seem to be particularly targeted. Additional concern is reiterated at the apparent laxness of Brazilian authorities failing to protect the rights of indigenous peoples and those who claim their rights and lacking due diligence regarding the implementation of proper investigation into these killings, which hinders access to justice for victims and their relatives, and prevents accountability of perpetrators.

187. The Rapporteur recalls that a positive environment that allows and promotes the rights of all people to freely associate and assemble is essential in the context of exploitation of natural resources to ensure a fair, transparent and accountable process that benefits all the parties involved (A/HRC/29/25, paragraph 67).

Colombia

188. JUA Case no. COL 4/2016 State reply: 2/05/2016 Alegaciones de asesinato de un defensor de derechos humanos y del derecho a la tierra.

189. JUA Case no. COL 5/2016 State reply: 9/11/2016 Presuntos actos de intimidación y amenazas de muerte contra dos organizaciones de defensa de derechos humanos y un sindicato.

190. JAL Case no. COL 6/2016 State reply: 29/08/2016, 12/10/2016 Información recibida en relación con los recientes acuerdos firmados entre el Gobierno y los representantes indígenas en el marco de la Minga Nacional Indígena y alegaciones con respecto al uso desmedido de la fuerza por agentes policiales y militares contra dirigentes indígenas.

Observaciones

Respuestas a comunicaciones

191. El Relator Especial agradece el Gobierno de Colombia por sus respuestas a las comunicaciones COL 4/2016, COL 5/2016, Case no. COL 6/2016.

Situación del entorno

192. El Relator Especial reitera su preocupación respecto de los repetidos ataques y actos de hostigamiento contra defensores y defensoras de los derechos humanos en Colombia, incluyendo defensores del medio ambiente (COL 4/2016), miembros de asociaciones indígenas (COL 6/2016), así como miembros de sindicatos (COL 5/2016).

193. En cuanto a las alegaciones de asesinato del Sr. William Castillo Chima, el Relator Especial toma nota de la apertura de una investigación que se encuentra en etapa de indagación. Asimismo, pide a las autoridades proporcionar los resultados de esta investigación tan pronto como sea posible. Adicionalmente, solicita a las autoridades aclarar la situación de la Sra. María Daviz Arrieta Pérez y e informar sobre las medidas efectivas de protección adoptadas en su caso.

194. El Relator reitera sus preocupaciones acerca de la violencia que enfrentan los miembros de sindicatos en el departamento del Cauca. Adicionalmente, expresa preocupación en cuanto a la presencia de diversos grupos armados post-desmovilización, que seguirían representando una amenaza a la seguridad pública en Colombia. El Relator toma nota de la respuesta de las autoridades y de las medidas tomadas en ciertos casos pero reitera sus preocupaciones con vista al contexto general de violencia contra los defensores y los sindicatos en la región.

195. El Relator Especial subraya sus fuertes preocupaciones en cuanto a la alta tasa de homicidios de defensores de los derechos humanos observada durante el período, a pesar de

la implementación del proceso de paz en Colombia. Expresa preocupación por el efecto disuasivo que puedan tener las alegaciones de homicidios, acoso y hostigamiento contra los defensores sobre el ejercicio del derecho a la libertad de opinión y expresión y la libertad de asociación de otros defensores de derechos humanos y sindicatos en el país.

196. En relación con las alegaciones con respecto al uso desmedido de la fuerza por agentes policiales y militares contra dirigentes indígenas, el Relator especial toma nota de la respuesta del Gobierno sobre la apertura de varias investigaciones, incluyendo pesquisas sobre la utilización de artefactos explosivos no convencionales, las lesiones y la muerte de un policía, así como otras investigaciones disciplinarias correspondientes. Sin embargo, el Relator insta al Gobierno a proporcionar los resultados de las investigaciones, en particular, sobre las muertes, lesiones y detenciones de dirigentes y miembros de pueblos indígenas.

197. El Relator especial recuerda la importancia de garantizar el goce libre del derecho de reunión pacífica para construir sociedades pacíficas y democráticas y que el uso de la fuerza por parte de los funcionarios encargados de hacer cumplir la ley debe ser excepcional y que las asambleas ordinariamente deben ser administradas sin recurrir a la fuerza. Todo uso de la fuerza debe cumplir los principios de necesidad y proporcionalidad (A/HRC/31/66, párrafo 57).

Cuba

198. JUA Case no. CUB 1/2016 State reply: 22/06/2016 Alegaciones de intimidación y amenazas de muerte contra una activista política en Cuba.

199. JUA Case no. CUB 2/2016 State reply: 12/09/2016 Información recibida en relación con alegaciones de uso excesivo de fuerza durante varias marchas organizadas por las Damas de Blanco, así como de violencia, arrestos y detenciones arbitrarias contra sus participantes por parte de las fuerzas de policía.

200. JUA Case no. CUB 3/2016 State reply: 14/12/2016 Información recibida en relación a alegaciones de actos de hostigamiento y represalias contra defensores y defensoras de derechos humanos, incluidos abogados, por su labor en defensa de los derechos humanos, y en particular por su cooperación con los mecanismos de las Naciones Unidas en el ámbito de los derechos humanos.

Observaciones

Respuestas a comunicaciones

201. El Relator Especial agradece las respuestas del Gobierno de Cuba a sus comunicaciones. En este sentido, agradece al Estado por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Situación del entorno

202. El relator agradece el Gobierno de Cuba para su respuesta a la comunicación relativa alegaciones de acoso, intimidación y represalias contra la Sra. Acevedo Payá (CUB 1/2016), las cuales podrían estar relacionadas a su trabajo de denuncia pública, así como a su papel como activista política y miembro de la oposición en Cuba. Toma nota de la respuesta de las autoridades cubanas subrayando que la Sra. Acevedo Payá no es activista de los derechos humanos y que habría recibido instrucciones y financiamiento de un Gobierno extranjero y de organizaciones radicales "anticubanas". Sin embargo, el Relator reitera su preocupación por las alegaciones levantadas, especialmente con vista a las represalias de la Sra. Acevedo Payá por su cooperación con el Consejo de los Derechos Humanos.

203. En cuanto a su comunicación CUB 3/2016, el Relator toma nota de las informaciones proporcionadas por el Gobierno, calificando las alegaciones de "infundadas" y que "persiguen empañar la realidad y la ejecutoria de Cuba en materia de promoción y

protección de todos los derechos humanos (…)". Con respecto a las informaciones según las cuales Cubalex no está constituida legalmente, el Relator Especial considera que un "procedimiento de notificación" se ajusta más a las normas internacionales de derechos humanos y debe ser aplicado por los Estados en lugar de un "procedimiento de autorización previa", que implica recibir el visto bueno de las autoridades. Con arreglo al procedimiento de notificación, las asociaciones pasan a ser personas jurídicas automáticamente, en cuanto sus fundadores notifican su creación a las autoridades. El Relator expresa sus preocupaciones frente al ingreso de oficiales del Estado al domicilio privado de la Sra. Diversent y a la detención de Julio Alfredo Ferrer Tamayo. El Relator expresa además su preocupación con respecto a la situación de los miembros de Cubalex como consecuencia de su trabajo legítimo en la promoción y protección de derechos humanos.

204. Finalmente, en su comunicación CUB 3/2016, toma nota de las informaciones según las cuales las Damas de Blanco no califican bajo la definición de defensores de los derechos humanos, que es una entidad "creada y pagada por el Gobierno de los Estados Unidos" que "trabaja abiertamente para subvertir el orden constitucional", que "reciben un pago mensual con el objetivo de generar incidentes que permitan trasladar al exterior una imagen de supuesta represión en el país (…)", y que sus actividades "atentan contra el orden público, la seguridad". El Relator expresa su extrema preocupación por dichas alegaciones y reitera su inquietud en cuanto a la aparente política de hostigamiento del Gobierno contra las Damas de Blanco y la violencia ejercida por parte de las fuerzas de seguridad contra ellas en el contexto de reuniones pacíficas.

205. Aprovecha esta oportunidad para clarificar que las comunicaciones CUB 2/2016 y CUB 3/2016 y las alegaciones subrayadas en éstas están en conformidad con el artículo 9 de la resolución 5/9 del Consejo de los Derechos Humanos, y de ninguna manera los relatores especiales han tomado posiciones que se inscriben fuera de los límites establecidos por sus mandatos respectivos. El Relator expresa su consternación frente a las denuncias de las autoridades en el sentido de que "la manipulación de la que son objeto dichos procedimientos especiales de la maquinaria de derechos humanos, por parte de elementos inescrupulosos, con propósito ajenos a la defensa de los derechos humanos, que los utilizan como instrumento de su campaña contra Cuba". El Relator reitera que, como experto independiente, tiene autoridad para considerar individuos como defensores de los derechos humanos, en conformidad con la Declaración sobre los Defensores de derechos humanos.

206. El Relator teme que estas alegaciones se enmarquen en un contexto de persistente intimidación, acoso judicial, hostigamiento, violencia y monitoreo de actividades por parte de funcionarios del Gobierno cubano, en contra de defensores y defensoras de derechos humanos.

207. El Relator Especial recuerda que si bien el Estado puede no estar de acuerdo con las opiniones y críticas expresadas por personas que abrazan convicciones o creencias disidentes, tiene la obligación positiva de asegurar la existencia de un entorno propicio para la sociedad civil, en términos de disfrute de los derechos de reunión pacífica y de asociación, para que aquella pueda existir, operar y expresarse pacíficamente sin ningún temor (A/HRC/20/27, párrafo 63).

208. El Relator Especial desea destacar dos resoluciones emblemáticas del Consejo de Derechos Humanos, en particular la resolución 22/6, en la que se estipula que el derecho a un "libre acceso y comunicación con organismos internacionales, en particular las Naciones Unidas, sus representantes y mecanismos sobre el terreno de los derechos humanos", y la resolución 24/24, en la que se insta a los Estados a que se abstengan de intimidar y protejan contra la intimidación o represalias la cooperación con las Naciones Unidas, sus mecanismos y sus representantes en la esfera de los derechos humanos.

Visita de país

209. El Relator Especial confía en que el Gobierno de Cuba responderá favorablemente a sus solicitudes de visita hechas en 2011, 2012 y 2013. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator

Especial en el desempeño de sus funciones y consideren favorablemente sus solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

Ecuador

210. JAL Case no. ECU 2/2016 State reply: 27/11/2016 Presuntas restricciones al derecho a la libertad de asociación de la Fundación Ciudadanía y Desarrollo.

211. JUA Case no. ECU 3/2016 State reply: 27/11/201 Información recibida en relación con el desalojo violento de una manifestación pacífica, la detención de más de 140 migrantes, de los cuales 94 de ellos habrían sido trasladados a Cuba sin que se hayan cumplido todas las garantías del debido proceso y en contravención del principio de no devolución.

212. JAL Case no. ECU 4/2016 State reply: 16/09/2016, 27/09/2016, 27/10/2016 Información recibida en relación con la presunta iniciación de disolución de la Unión Nacional de Educadores, UNE, el mayor sindicato de profesores del Ecuador, que tiene personalidad jurídica desde el 19 de abril de 1950.

213. JOL Case no. ECU 5/2016 State reply: 27/10/2016 Información adicional sobre la presunta iniciación de disolución de la Unión Nacional de Educadores, UNE, el mayor sindicato de profesores del Ecuador, que tiene personería jurídica desde el 19 de abril de 1950.

214. JUA Case no. ECU 8/2016 State reply: 05/01/2017, 07/03/2017, Información recibida en relación con la presunta decisión tomada el 20 de diciembre de 2016 por el Gobierno del Ecuador de cerrar otra organización de la sociedad civil, Acción Ecológica.

Observaciones

Respuestas a comunicaciones

215. El Relator Especial agradece las respuestas del Gobierno de Ecuador a sus comunicaciones. En este sentido, agradece al Estado por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Situación del entorno

Libertad de reunión pacífica

216. El Relator agradece al Gobierno por su respuesta extensa en cuanto a su comunicación ECU 3/2016 e informaciones recibidas en relación con el desalojo violento de migrantes cubanos durante una manifestación pacífica, la detención de 140 de ellos y el traslado de 94 de ellos a Cuba. El Relator sigue expresando su preocupación en relación con las audiencias de deportación que no cumplieron con las garantías procesales básicas y con el hecho de que los deportados no tuvieron la oportunidad de apelar las órdenes y, en algunos casos, que fueron deportados a pesar de las órdenes judiciales en su favor. Reitera que, con vista al derecho de reunión pacífica, los Estados tienen también la obligación negativa de evitar injerencias indebidas en el ejercicio del derecho de reunión pacífica, garantizado por el artículo 21 del PIDCP.

Libertad de asociación

217. El Relator observó con preocupación las alegaciones sobre restricciones del derecho a la libertad de asociación y de expresión de la Fundación Ciudadanía y Desarrollo (ECU 2/2016). Agradece la respuesta del Gobierno recibida el 21 de Octubre de 2016 y toma nota del marco normativo e institucional emprendido desde 2007 para fortalecer el proceso de construcción de la ciudadanía. No obstante, lamenta no haber recibido respuestas a sus comunicaciones. Agradece a las autoridades por las informaciones proporcionadas con respecto a la Unión Nacional de Educadores (UNE) (ECU 4/2016 y ECU 5/2016). Sin

embargo, permanece preocupado por el hecho de que la UNE fuera disuelta como resultado de su trabajo a favor de la defensa y de la promoción de los derechos humanos y pudiera ser un acto de represalia por la cooperación de sus miembros con los mecanismos de protección de los derechos humanos de las Naciones Unidas. El Relator reitera que, con la disolución de la UNE, el sindicato de educadores más importante del país, los educadores ecuatorianos están siendo privados de una herramienta fundamental para hacer que su voz y preocupaciones sean oídas, y que esta disolución puede afectar negativamente a los defensores de derechos humanos y a la sociedad civil en general (PR del 27 de septiembre de 2016).

218. El Relator Especial reitera que la suspensión y la disolución involuntaria de una asociación son las formas más severas de restricción de la libertad de asociación. Por consiguiente, de conformidad con las normas internacionales de derechos humanos, esas medidas sólo podrán imponerse ante un riesgo claro e inminente de violación flagrante de la legislación nacional. Deberán ser estrictamente proporcionales a su legítimo objetivo y se utilizarán únicamente cuando sean insuficientes medidas menos severas (A/HRC/20/27, para. 75).

219. El Relator considera muy positiva la decisión tomada por las autoridades de revisar su decisión de disolución de Acción Ecológica (ECU 8/2016 y PR del 30 de diciembre de 2016). Es un paso positivo hacia la apertura del especio otorgado a la sociedad civil, y a la promoción de los derechos a la libertad de asociación y a la libertad de expresión. Sin embargo, sigue preocupado por la situación del pueblo Shuar en la Provincia de Morona Santiago. El Relator ha recibido informaciones en cuanto a la detención de líderes de la comunidad Shuar en conexión con su rol durante las protestas de defensa del territorio, que podrían ser interpretadas como medidas de amedrentamiento e incrementar así las tensiones y polarizaciones violentas; la situación de las 35 familias desplazadas cuyo acceso a medios de vida, atención psicosocial, atención médica, y educación están al momento siendo limitados; la presencia del ejército que incrementa el riesgo de incidentes en relación con violencia basada en género contra las mujeres, niñas y niños; la escalada del conflicto, no solamente frente a los hecho actuales, sino considerando su posible ampliación, debido a que los territorios de los pueblos originarios, especialmente en la selva amazónica, tienen recursos minerales de interés del gobierno nacional; y finalmente, la falta de canales de diálogo para resolver una situación altamente compleja sobre la cual los estándares aplicables de consulta previa libre e informada son claros.

220. El Relator consideró con atención la respuesta a su comunicación ECU 5/2016 recibida el 28 de octubre de 2016. Empero, reitera que la implementación del Decreto No. 16, y de su de su reforma con el Decreto No. 739, han generado una limitación indebida de los derechos a la libertad de asociación y a la libertad de expresión, restringiendo ampliamente el espacio otorgado a la sociedad civil en Ecuador. La implementación y el uso de los decretos la siguen siendo problemáticos a la luz de del derecho internacional de los derechos humanos, especialmente los artículos 19 y 22 del Pacto Internacional de Derechos Civiles y Políticos. En este sentido, el Relator insta de nuevo las autoridades a revocar dichas leyes y a adoptar todas las medidas necesarias para ajustar el marco legislativo y las acciones del Estado a las normas y estándares internacionales relativos a los derechos a la libertad de expresión y la libertad de asociación.

Visita de país

221. El Relator Especial confía en que el Gobierno de Ecuador responderá favorablemente a sus solicitudes de visita hechas en 2014 y 2015. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sus solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

Guatemala

222. JAL Case no. GTM 5/2016 State reply: 28/02/2017 Alegaciones de acoso judicial y criminalización contra seis defensores de derechos humanos, del medio ambiente, y de los derechos de los pueblos indígenas en el departamento de Huehuetenango.

223. JAL Case no. GTM 7/2016 State reply: 01/03/2017 Información recibida en relación con supuestos asesinatos, ataques y actos de intimidación contra defensores de derechos humanos, en particular defensores de tierras, territorios y recursos naturales, en Guatemala.

Observaciones

Respuestas a comunicaciones

224. El Relator Especial agradece las respuestas del Gobierno de Cuba a sus comunicaciones. En este sentido, agradece al Estado su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Situación del entorno

225. El Relator Especial agradece al Gobierno por aclarar los hechos en los casos de los seis defensores mencionados en la comunicación GTM 5/2016. Toma nota de que los Sres. Arturo Pablo Juan, Sotero Adalberto Villatoro Hernández, Francisco Juan Pedro y Domingo Baltazar fueron absueltos, que el Sr. Bernardo Ermitaño López Reyes fue condenado a tres años de prisión conmutables por obstaculización de la acción penal, y que Rigoberto Juárez Mateo fue condenado a 6 meces de prisión conmutables por coacción. El Relator Especial expresa sus inquietudes en cuanto a las condenas de estos dos individuaos y teme que estén relacionadas a su activismo en los derechos humanos, como lo subrayó en su comunicación.

226. El Relator toma nota de la investigación criminal abierta por el Ministerio Público y agradece conceder tiempo adicional para esclarecer los elementos del caso. Sin embargo, sigue profundamente preocupado por la situación de los defensores de las tierras, territorios y recursos naturales, con vista al alto nivel de homicidios en el país.

227. Tomando en cuenta el contexto altamente peligroso para los miembros de asociaciones de promoción y de protección de los derechos humanos y, particularmente del medio ambiente, el Relator recalca la importancia de proporcionar una protección adecuada para las personas en situación de riesgo. De la misma forma, pide a las autoridades que le informen de los resultados de las investigaciones y sobre las circunstancias que llevaron a la muerte de los defensores mencionados en la comunicación, tan pronto como sea posible. Subraya que el derecho a la vida debe ser garantizado bajo los Estados a todas las personas en todas las circunstancias y en todo momento, incluyendo en el contexto del ejercicio de los derechos a la libertad de asociación y a la libertad de reunión pacífica, como lo prescribe el artículo 3 de la Declaración Universal de Derechos Humanos y 6 del PIDCP.

228. El Relator Especial recuerda al Gobierno de Guatemala su obligación de asegurar un entorno propicio para el disfrute del derecho de asociación, protegido por el PIDCP en su artículo 22. Adicionalmente, el Estado tiene la obligación positiva de asegurar que las personas que ejercen el derecho a la libertad de asociación puedan actuar libremente, sin temor a posibles amenazas, actos de intimidación o violencia, como arrestos o detenciones arbitrarios, o campañas difamatorias en los medios de difusión (A/HRC/20/27, pár 63).

229. El Relator Especial ha subrayado en informes anteriores el importante papel que desempeñan los recursos eficaces en la promoción de la rendición de cuentas por violaciones de los derechos humanos, afirmando que los Estados tienen la obligación de establecer mecanismos accesibles y eficaces de presentación de denuncias que puedan investigar de forma independiente, rápida y minuciosa las denuncias sobre violaciones y abusos sobre derechos humanos a fin de exigir responsabilidad a sus autores (véase A/HRC/20/27, pár. 77 a 81). La falta de mecanismos adecuados de compensación en caso

de infracciones relacionadas con la explotación de los recursos naturales puede contribuir a aumentar las tensiones sociales, al no saber las comunidades cómo obtener una reparación por otros cauces (A/HRC/29/25, pár. 35).

Visita de país

230. El Relator Especial agradece la invitación a su mandato el 9 de enero de 2013 y confía en que el Gobierno de Guatemala responderá favorablemente y en la brevedad a su proposición de fechas para una visita.

Haiti

231. JAL Case no. HTI 3/2016 State reply : none Informations reçues concernant l'annulation du Festival Massi Madi, un festival de films et d'arts sur la thématique lesbienne, gay, bisexuelle, transsexuelle, transgenre et queer (LGBTQ), mettant en vedettes les membres de ces communautés, devant avoir lieu du 27 au 30 septembre 2016.

232. JUA Case no. HTI 2/2017 State reply : none Allégations de menaces à l'encontre de M. Pierre Espérance, défenseur des droits de l'homme, Directeur exécutif du Réseau national de défense des droits de l'homme (RNDDH) et Secrétaire général de la Fédération Internationale des Droits de l'Homme (FIDH) en Haïti.

Observations

Réponses aux communications

233. Le Rapporteur spécial regrette ne pas avoir reçu de réponse aux autres communications et rappelle l'obligation des Etats de coopérer avec son mandat en vertu des résolutions 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme.

Environnement dans lequel les droits sont exercés

234. Le Rapporteur spécial réitère ses préoccupations quant à l'annulation du Festival Massi Madi, un festival de films et d'arts sur la thématique lesbienne, gay, bisexuelle, transsexuelle, transgenre et queer (LGBTQ). De plus, les menaces proférées contre les membres des organisations LGBTQ organisatrices ainsi que les déclarations faites par des fonctionnaires contre la communauté LGBTQ sont des plus préoccupantes (HTI 3/2016). Par là même, il regrette que les menaces de mort formulées à l'encontre de M. Espérance et sa famille, et à la campagne de dénigrement contre le Réseau national de défense des droits de l'homme, n'aient pas fait l'objet d'une enquête par les autorités (HTI 2/2017). L'hostilité ouverte contre les personnes de la communauté LGBTQ et non sanctionnée, ainsi que la passivité des autorités face aux menaces proférées contre les défenseurs des droits de l'homme indiquent un climat défavorable pour les activistes et le libre exercice des droits à la liberté d'association, de manifestation pacifique et d'expression à Haïti.

235. Il rappelle au Gouvernement que les articles 21 et 22 du PIDCP, auquel la République d'Haïti a accédé le 6 février 1991, consacre les droits à la liberté de réunion pacifique et d'association, respectivement, et que l'Etat a l'obligation de faire en sorte qu'un climat propice à l'exercice de ces droits soit instauré. Il semble que la passivité des autorités devant les violations des articles 21 et 22 ne soit pas l'objet de suivi de la part des autorités. Il rappelle au Gouvernement que les recommandations du Haut-Commissaire aux États membres, dans son rapport du 17 novembre 2011 (A/HRC/19/41) concernant la liberté d'expression, d'association et de réunion, en particulier le para. 84, alinéa (f) : « de veiller à ce que les personnes puissent exercer leur droit à la liberté d'expression, d'association et de réunion pacifique en toute sécurité, sans discrimination fondée sur l'orientation sexuelle ou l'identité de genre ».

Honduras

236. JUA Case no. HND 2/2016 State reply: 14/03/2016, 17/03/2016 Alegaciones de asesinato de una defensora de derechos humanos y el riesgo que corre otro defensor del derecho a la tierra.

237. JAL Case no. HND 4/2016 State reply: none Alegaciones relativas a agresiones físicas y amenazas, y a la falta de protección adecuada de manifestantes y defensores de derechos humanos por parte de las fuerzas de seguridad en el marco de una manifestación pacífica.

238. JOL Case no. HND 7/2016 State reply: none Información recibida sobre la sentencia de 5 de octubre de 2015 emitida por la Corte Interamericana de Derechos Humanos en el caso López Lone y otros vs. Honduras, así como la reciente resolución de interpretación de sentencia relacionada con el mismo caso, emitida por el pleno de la Corte el pasado 2 de septiembre de 2016.

239. JUA Case no. HND 9/2016 State reply: none Información recibida en relación con el asesinato de los defensores de derechos humanos, el Sr. José Ángel Flores y el Sr. Silmer Dionisio George, del Movimiento Unificado Campesino del Aguán, y los intentos de asesinato contra el Sr. Tomás Gómez Membreño y el Sr. Alexander García Sorto, del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras, así como, de manera general, en relación con los riesgos a la seguridad física y psicológica que corren los demás defensores de los derechos humanos en Honduras.

Observaciones

Respuestas a comunicaciones

240. El Relator Especial agradece al Gobierno de Honduras por sus respuestas a la comunicación HND 2/2016. Sin embargo, lamenta no haber recibido una respuesta a sus otras tres comunicaciones enviadas en el período del presente reporte. En este sentido, recuerda al Estado que considera aquellas respuestas como parte integral de la cooperación de los Estados con su mandato, de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Situación del entorno

241. El Relator Especial leyó con atención las respuestas y los documentos enviados en el caso HND 2/2016, relativo a la muerte de la Sra. Berta Isabel Cáceres Flores, defensora de los derechos humanos, activista para el medio ambiente, miembro de la población indígena Lenca, y Cofundadora y Coordinadora del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH). Toma nota la iniciación de una investigación por el Ministerio Público, la Fiscalía, la ATIC y la Policía nacional para el esclarecimiento de los hechos y responsabilidades en el asesinato de la defensora de los derechos humanos. No obstante, más de un año después de los hechos alegados, y a pesar de la gravedad de los hechos subrayados, los procedimientos especiales todavía no han recibido ningún resultado sobre dicha investigación. El Relator recibió informaciones según las cuales, el 28 de septiembre de 2016, la magistrada de la Corte Suprema de Justicia (CSJ) encargada de las investigaciones y las acusaciones relativas al asesinato de Berta Cáceres, fue interceptada por hombres armados mientras manejaba en la colonia Humuya de Tegucigalpa, encontrándose en ese momento en poder del expediente del caso. En el incidente, los asaltantes despojaron a la magistrada de su auto y, junto con él, se llevaron expediente. A la fecha, ninguna información ha sido proporcionada sobre estos hechos adicionales, a pesar de la llamada del Relator Especial sobre la situación de los derechos humanos a las autoridades hondureñas a investigar el robo del expediente y a proceder a su reconstrucción de manera transparente, con plena participación de los representantes de la víctima y sus familiares, el 6 de octubre de 2016, por vía de un comunicado de prensa.

242. Asimismo, el Relator reitera su consternación por los asesinatos del Sr. José Ángel Flores y del Sr. Silmer Dionisio George y por los intentos de asesinato contra el Sr. Tomás

Gómez Membreño y el Sr. Alexander García Sorto, y ante la falta de eficacia de las medidas de protección proporcionadas a favor de los defensores de derechos humanos en Honduras, pese a las medidas cautelares otorgadas por la CIDH en su favor, que no lograron garantizar su protección y seguridad física. Lamenta la situación de peligro extremo en la cual se encuentran los defensores de los derechos humanos en Honduras, sobre todo los activistas del medio ambiente. Con vista a la alta tasa de ejecuciones extrajudiciales de defensores ambientalistas, Honduras se ha convertido en un lugar donde ejercer sus derechos a la libertad de expresión y de asociación sin temor a perder la vida, particularmente en el contexto de la promoción y de la protección de los derechos del medio ambiente, se ha vuelto imposible.

243. Recuerda la obligación de los Estados de garantizar un entorno propicio para el libre ejercicio del derecho de asociación; un derecho consagrado en el artículo 22 del Pacto Internacional de Derechos Civiles y Políticos, ratificado por Honduras el 25 de agosto de1997. Subraya adicionalmente que el derecho a la vida es una norma imperativa y absoluta que admite excepciones en ninguna circunstancia.

244. El Relator Especial exhorta a las autoridades a que tomen las medidas necesarias para que estos actos sean investigados de forma pronta y adecuada, que los culpables respondan ante la justicia y que las víctimas obtengan reparación adecuada, en particular, en casos en los cuales la policía u otros agentes estatales resultan involucrados.

245. Finalmente, expresa preocupación por las informaciones relativas al uso excesivo de la fuerza por parte de la Policía Nacional en el contexto de manifestaciones pacíficas (HND 4/2016 y HND 9/2016). El Relator Especial advierte contra los entornos que puedan obstaculizar gravemente el disfrute de este derecho y recuerda al Gobierno de Honduras su obligación de proteger activamente las reuniones pacíficas (A/HRC/20/27, párrafo 33), derecho consagrado en artículo 21 del PIDCP. De la misma manera, se refiere a las recomendaciones prácticas contenidas en el Informe conjunto del Relator Especial sobre los derechos a la libertad de reunión pacífica y de asociación y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias acerca de la gestión adecuada de las manifestaciones (A/HRC/31/66).

Visita de país

246. El Relator Especial agradece la invitación extendida a su mandato el 19 de agosto de 2015 en la cual el Gobierno propuso que una visita tuviera lugar en noviembre de 2015 o en enero o febrero de 2016. Debido a varios compromisos previos, desafortunadamente, el Relator Especial no pudo realizar esta visita antes de que su mandato se terminara. Confía en que el Gobierno de Honduras formulará prontamente nuevas proposiciones factibles para una visita en un futuro cercano.

Mexico

247. JAL Case no. MEX 2/201 State reply: 18/04/2016 Alegaciones de campañas de desprestigio y de estigmatización contra defensores de derechos humanos, organizaciones non-gubernamentales e integrantes de mecanismos internacionales de derechos humanos.

248. JAL Case no. MEX 6/2016 State reply: 06/01/2017 Información recibida en relación con violaciones graves de derechos humanos, en particular los derechos a la vida, a no ser arbitrariamente detenido, a reunirse pacíficamente, a expresarse y asociarse libremente y a una protección eficaz de los defensores de los derechos humanos.

Observaciones

Respuestas a comunicaciones

249. El Relator Especial agradece al Gobierno de México las respuestas detalladas a todas las comunicaciones enviadas durante el período del presente informe. Considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los

Gobiernos con su mandato de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos. En este sentido, se congratula del compromiso adoptado por las autoridades mexicanas. A su vez, toma nota de los esfuerzos para garantizar que los derechos de libertad de asociación y de reunión pacífica sean respetados.

Situación del entorno

250. En relación con la respuesta del Gobierno a la comunicación MEX 2/201, el Relator Especial toma nota de las medidas de protección asignadas a los miembros del Equipo Argentino de Antropología Forense, a José Antonio Guevara Bermúdez y a Mariclaire Acosta. También toma nota de la decisión sobre el no ejercicio de la acción penal en el caso del Sr. Emilio Álvarez Icaza. Reitera que las medidas adoptadas para proteger a personas defensoras de derechos humanos y a periodistas en México, en particular el Mecanismo de Protección de Personas Defensoras de Derechos Humanos y Periodistas, es un paso positivo hacia el pleno goce de los derechos a la libertad de expresión, de asociación y de manifestación pacífica en México.

251. Sin embargo, el Relator expresa sus preocupaciones en cuanto a informaciones recibidas relativas a allanamiento de las oficinas del Sr. Emilio Álvarez Icaza. Asimismo, reitera sus preocupaciones en cuanto al clima general de impunidad que prevalece en el país. El caso de los estudiantes de Ayotzinapa es una ilustración adicional de la situación de impunidad, con vista a la falta de voluntad del Gobierno mexicano para investigar y sancionar a los responsables involucrados en la muerte de los estudiantes. Estos actos tienen un efecto inhibidor para el trabajo de las personas defensoras de derechos humanos e incrementan los riesgos a los que se enfrentan.

252. El Relator hace hincapié en el hecho de que el derecho a la libertad de asociación obliga a los Estados a adoptar medidas positivas para establecer y mantener un entorno propicio para el disfrute de ese derecho. Es fundamental que las personas que ejercen el derecho a la libertad de asociación puedan actuar libremente, sin temor a posibles amenazas, actos de intimidación o violencia, como ejecuciones sumarias o arbitrarias, desapariciones forzadas o involuntarias, arrestos o detenciones arbitrarios, torturas y tratos o penas crueles, inhumanos o degradantes, campañas difamatorias en los medios de difusión, prohibiciones de viaje, y despidos arbitrarios (A/HRC/20/27, pár. 63).

253. El Relator considera positivas todas las medidas tomadas por el Gobierno para atender a las personas afectadas por los incidentes ocurridos en junio de 2016 en Nochixtlán, Oaxaca, así como la comunicación y coordinación con las comunidades locales. Toma nota de las investigaciones en marcha para esclarecer los hechos, deslindar responsabilidades e iniciar los procesos penales que correspondan en este caso. Asimismo, pide a las autoridades proporcionar los resultados de las investigaciones abiertas. Sin embargo, el Relator reitera sus inquietudes por el uso excesivo de la fuerza por parte de las fuerzas armadas, en particular durante manifestaciones.

254. El Relator Especial subraya nuevamente el hecho de que la obligación de los Estados es proteger activamente y promover la celebración de reuniones pacíficas. El uso de la fuerza debe por consiguiente ser excepcional, proporcional y limitarse a lo estrictamente necesario para la prevención de un delito y no debe usarse la fuerza en una medida en que exceda estos límites (A/HRC/31/66). Recuerda que las armas de fuego pueden emplearse solamente ante un peligro inminente, ya sea para proteger la vida o para evitar lesiones que comprometan la vida (uso de una fuerza proporcionada). Además, no debe haber ninguna otra opción viable, como la captura o el empleo de fuerza no letal, para hacer frente a esa amenaza a la vida (uso de una fuerza necesaria) (A/HRC/31/66, pár 60.).

255. El Relator subraya que el derecho a la vida debe ser garantizado por los Estados a todas las personas en todas las circunstancias y en todo momento, incluyendo en el contexto del ejercicio de los derechos a la libertad de asociación y a la libertad de reunión pacífica, como lo prescribe el artículo 3 de la Declaración Universal de Derechos Humanos y 6 del PIDCP.

256. El Relator recalca que los Estados deben investigar de manera rápida y eficaz todas las acusaciones de violaciones en el contexto de reuniones por conducto de órganos independientes e imparciales. Además, el componente procesal del derecho a la vida requiere que el Estado investigue toda privación arbitraria de la vida. Si un Estado no investiga diligentemente un homicidio, estará violando el derecho a la vida él mismo (A/70/304).

Nicaragua

257. JOL Case no. NIC 1/2016 Respuesta al Estado de Nicaragua State reply: 16/06/2016

Observaciones

Respuestas a comunicaciones

258. El Relator Especial agradece al Gobierno por su respuesta a su comunicación enviada durante el período del presente informe. Considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los Gobiernos con su mandato de conformidad con las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos.

Situación del entorno

259. El 14 de enero de 2016, una comunicación por parte de los Procedimientos especiales fue enviada al Gobierno de Nicaragua (AL NIC 6/2015) sobre alegaciones de abuso de autoridad y funciones, y falta de protección de manifestantes y defensores de derechos humanos, por parte de la Policía Nacional nicaragüense en el marco de una manifestación campesina contra la construcción del Canal interoceánico en Nicaragua. El 11 de marzo 2016, los Procedimientos especiales recibieron una respuesta sobre las alegaciones subrayadas en su comunicación. El 23 de marzo de 2016, a petición de la Misión Permanente de Nicaragua, una reunión sobre el caso tuvo lugar entre el Fiscal de Nicaragua y los titulares de mandatos de procedimientos especiales que se unieron a la comunicación AL NIC 6/2015 para intercambiar información complementaria a la respuesta enviada el 11 de marzo de 2016. Para dar seguimiento a dicha reunión, los relatores especiales respondieron al Estado y realizaron algunas preguntas adicionales relativas a las formuladas en la comunicación NIC 6/2015 (NIC 1/2016).

260. El Relator Especial toma nota de la respuesta del Gobierno recibida el 16 de agosto de 2016. Sin embargo, lamenta que la respuesta del Gobierno no conteste a ninguna pregunta planteada en su carta. Con vista a la falta de información en sentido contrario, el Relator Especial concluye que las alegaciones presentadas en su comunicación tienen fundamento.

261. Asimismo, reitera que la Ley 872, que impone el requisito de solicitar un permiso previo a la organización de manifestaciones, no se conforma a las normas y estándares internacionales en materia de derechos humanos. Estos requisitos impuestos por la ley para poder organizar una reunión pacífica, impedirían el pleno goce y ejercicio legítimo del derecho de reunión pacífica y el derecho a la libertad de expresión, tal como se encuentran establecidos en los artículos 21 y 19, respectivamente, del PIDCP, ratificado por Nicaragua el 12 de marzo de 1980. Recalca que, a lo sumo, puede aplicarse un procedimiento de notificación previa que obedezca a la necesidad de que las autoridades del Estado faciliten el ejercicio del derecho a la libertad de reunión pacífica y tomen medidas para proteger la seguridad y el orden público y los derechos y libertades de los demás. Dicha notificación debe someterse a una evaluación de proporcionalidad que no sea excesivamente burocrática y presentarse con una antelación máxima, por ejemplo, de 48 horas antes de la fecha prevista para celebrar la reunión (A/HRC/20/27, par. 28 – 29).

262. Reitera también inquietudes en cuanto al hecho de que los actos de violencia alegados hayan podido justificar una injerencia desproporcionada en el ejercicio del derecho de reunión pacífica. Recalca las obligaciones de los Estados de prevenir injerencias

indebidas en el ejercicio del derecho de reunión pacífica, así como de tomar todas las medidas necesarias para prevenir actos de violencia que perturben el desarrollo de manifestaciones pacíficas. Subraya que toda restricción que se imponga al derecho de reunión pacífica debe ser necesaria y proporcional al objetivo planteado (A/HRC/20/27, par. 15-16).

263. Además, el Relator expresa nuevamente inquietudes sobre la falta de avances en la investigación en los casos de violencia contra manifestantes como la Sra. Nadine Ramírez, el Sr. Darwin Francisco Jirón Espinoza o el Sr. Alexander Ortega. Reitera la obligación del Estado de llevar a cabo investigaciones prontas e imparciales sobre todos los actos de violencia, y de sancionar a los responsables. Asimismo, el Estado tiene la obligación de proteger activamente las reuniones pacíficas y quienes participan pacíficamente en ellas (A/HRC/20/27, par. 33).

264. Finalmente, el Relator Especial reitera la necesidad de completar la información proporcionada por el Gobierno, incluyendo información sobre las medidas estructurales que se hayan tomado para garantizar la protección de los defensores y defensoras de derechos humanos, así como sus familias, de forma integral, coordinada y consistente, independientemente del perfil público o notoriedad de la víctima. Reitera que esto incluye un análisis de riesgo temprano, exhaustivo y objetivo; una investigación sobre las causas de las agresiones, y la sanción y prevención de este tipo de ataques, así como la promoción y el apoyo público de la labor de las y los defensores de derechos humanos.

Visita de país

265. El Relator Especial confía en que el Gobierno de Nicaragua responderá favorablemente a sus solicitudes de visita hechas en 2011 y 2013. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sus solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

Unites States of America (USA)

266. JUA Case no. USA 7/2016 State reply: None Information received regarding the construction of an oil pipeline in proximity to the Standing Rock Sioux Reservation and the Missouri River, the main source of water for the tribe and an area of cultural and spiritual significance, without adequate consultation and free, prior and informed consent.

267. JUA Case no. USA 14/2016 State reply: 09/12/2016 Information received concerning the excessive use of force by state law enforcement officials, private security companies, as well as the North Dakota National Guard, in the context of protests against the Dakota Access Pipeline.

268. JOL Case no. USA 3/2017 State reply: 11/05/2017 Information received concerning a number of proposed bills criminalizing peaceful protest in nineteen states in the United States of America (USA), representing a worrying trend that could result in a detrimental impact on the rights to freedom of peaceful assembly and freedom of expression in the country.

Observations

Responses to communications

269. The Special Rapporteur thanks the Government of the United States for its replies to communications USA 14/2016 and USA 3/2017. However, he regrets that the authorities have not replied to communication USA 7/2016 and urges them to provide a detailed response to the questions raised in his letter, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

270. With regard to allegations raised in communications USA 7/2016 and USA 14/2016 concerning excessive use of force by state law enforcement officials, private security companies, as well as the North Dakota National Guard, in the context of protests against the Dakota Access Pipeline, the Special Rapporteur acknowledges the Government reply received on 9 December 2016. He takes note of an ongoing investigation regarding the use of dogs by private security officers hired by the company that is constructing the Dakota Access Pipeline, Dakota Access, LLC, and of the follow-up regarding the situation by the staff of the U.S. Department of Justice (DOJ) dispatched to the area, and considers as a positive step the fact that a dedicated telephone number and e-mail address to receive complaints was established. The Rapporteur also acknowledges the continuous communication set up by the U.S. Army Corps of Engineers (Army Corps) with the Standing Rock Sioux Tribe, Energy Transfer Partners, and Dakota Access, LLC, leading to the decision by the Army Corps to consider any modification to the pipeline route that may be proposed by the permit applicant. The Rapporteur also takes note of the United States' commitment to the right to lawful and peaceful protest activities and that credible allegations of constitutional violations by law enforcement, including uses of excessive force, will continue to be assessed pursuant to federal civil rights law.

271. Nevertheless, the Special Rapporteur regrets that questions raised in his communications were not addressed by the authorities. He reiterates his concerns expressed in both communications and press releases issued on 23 September 2016 and 15 November 2016, particularly with regard to the excessive use of force by security forces during protests, as well as the arbitrary detentions of more than 400 individuals and human rights defenders for exercising their legitimate right to peaceful assembly. He is alarmed at the criminalization of indigenous peoples in their attempts to safeguard their fundamental freedoms and in exerting their right to be consulted and to express their opinion freely and take part in peaceful protests to protect their cultural heritage and environment. He is finally worried at the information he received about a presidential memorandum to the Secretary of the Army signed by President Donald Trump detailing the future procedures that should be adopted to expedite the approval of the Dakota Access Pipeline. He reiterates the concern expressed by the Special Rapporteurs in the previous communications regarding the impact the construction of the pipeline will have on the environment and on the local indigenous communities' lives.

272. He recalls that any restrictions imposed on the right to freedom of peaceful assembly must be necessary and proportionate to the aim pursued. The force should be used only on an exceptional basis, if it is strictly unavoidable, and if applied, it must be in in accordance with international human rights law, following principles of legality, precaution, necessity, proportionality and accountability (A/HRC/31/66, para 50).

273. In this connection, the Special Rapporteur warns against restrictions used in a manner that impairs the right to assembly and refers to the General Comment No. 31 of the Human Rights Committee on the nature of the general legal obligation imposed on States parties to the International Covenant on Civil and Political Rights, which states that "where such restrictions are made, States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights" (CCPR/C/21/Rev.1/Add.13, paragraph 6).

Country visits

274. The Special Rapporteur thanks the United States authorities for the mission he conducted in the country from 11 to 27 July 2016. He reiterates his thanks for the excellent cooperation displayed by the US authorities in this context.

Venezuela

275. JAL Case no. VEN 3/2016 State reply: 04/07/2016 Presunta desaparición y asesinato de 28 trabajadores en las minas de Oro de Tumeremo, Estado de Bolívar, Venezuela.

276. JAL Case no. VEN 6/2016 State reply: 07/09/2016 Información recibida en relación con alegaciones de campañas de desprestigio, hostigamiento repetido e intimidación contra un defensor de derechos humanos, el Sr. Humberto Prado Sifontes.

277. JOL Case no. VEN 7/2016 State reply: 17/08/2016 Información recibida en relación con varias disposiciones del Decreto No. 2.323 publicado en la Gaceta Oficial No. 6.227 el 13 de Mayo de 2016, las cuales podrían estar en discrepancia con normas y estándares internacionales de derechos humanos, en particular con los derechos a la libertad de expresión y de reunión pacífica.

278. JAL Case no. VEN 2/2017 State reply: None Información recibida en relación con el supuesto uso excesivo de la fuerza y la criminalización de las protestas ocurridas en Venezuela, particularmente en el mes de abril 2017, posterior a la emisión del Decreto No. 2.323, de "Estado de Excepción y Emergencia Económica".

Observaciones

Respuestas a comunicaciones

279. El Relator Especial agradece las respuestas del Gobierno de Cuba a sus comunicaciones. En este sentido, agradece al Estado por su cooperación con su mandato, conforme a las resoluciones 24/5 (2013), 21/16 (2012) y 15/21 (2010) del Consejo de Derechos Humanos. Sin embargo, lamenta no haber recibido una respuesta a su comunicación VEN 2/2017.

Situación del entorno

280. El Relator Especial toma nota de la respuesta del Gobierno indicando la situación económica que atraviesa Venezuela, dando lugar a una situación "excepcional" y, consecuentemente, a la necesidad de implementar un estado de excepción. Sin embargo, reitera sus preocupaciones en relación con varias disposiciones del Decreto No. 2.323 del 13 de Mayo de 2016, las cuales están en discrepancia con normas y estándares internacionales de derechos humanos, en particular con los derechos a la libertad de expresión y de reunión pacífica. El Relator expresa su preocupación por el hecho de que se utilicen consideraciones de seguridad para menoscabar el derecho de reunión pacífica.

281. El Relator quiere enfatizar las condiciones para la declaración del estado de excepción según lo establecido en el artículo 4 del PIDCP. Antes de que un Estado invoque el artículo 4, deben cumplirse las dos condiciones fundamentales de la disposición: la situación debe constituir una emergencia pública que amenace la vida de la nación, y el Estado Parte debe haber proclamado oficialmente el estado de emergencia. Las medidas derogatorias de las obligaciones establecidas en el artículo 4 no deben ir más allá de lo estrictamente requerido por las exigencias de la situación y tampoco deben ser incompatibles con otras obligaciones en virtud del derecho internacional. Tal como lo interpreta el Comité de Derechos Humanos en la Observación General N° 29, esto requiere que los Estados justifiquen detenidamente no sólo su decisión de proclamar el estado de emergencia, sino también las medidas específicas basadas en dicha proclamación. El párrafo 2 del artículo 4 prohíbe las excepciones a los artículos 6, 7, 8, 11, 15, 16 y 18. El hecho de que algunas de las disposiciones del Pacto hayan sido enumeradas en el párrafo 2 del artículo 4, no significa que otros artículos del Pacto puedan ser objeto de excepciones a voluntad de los Estados, incluso cuando exista una amenaza para la vida de la nación. La obligación legal de reducir todas las excepciones a las estrictamente requeridas por las exigencias de la situación comprende el deber de realizar un análisis cuidadoso en virtud de cada artículo del Pacto basado en una evaluación objetiva de la situación actual (CCPR / C /

21 / Rev. 1 / Add.11). Además, es inherente a la protección de derechos reconocidos explícitamente como no derogables en el párrafo 2 del artículo 4 *que deben garantizarse mediante garantías procesales. Las salvaguardas procesales nunca pueden estar sujetas a* medidas que eludan la protección de los derechos no derogables (CCPR / C / 21 / Rev.1 / Add.11).

282. En relación con la desaparición y asesinato de 28 trabajadores en las minas de Oro de Tumeremo, Estado de Bolívar (VEN 3/2016), el Relator toma nota del inicio de una investigación penal, así como de las medidas de protección adoptadas en el caso de 19 personas. Asimismo, pide al Gobierno proporcionar los resultados de las investigaciones tan pronto sea posible, entregar los culpables a la justicia, y prevenir y combatir de otras formas las desapariciones en el futuro. Agradece a las autoridades por su respuesta detallada a la comunicación VEN 6/2016 y se congratula de la adopción de medidas de protección para garantizar la seguridad de la Sra. Sifontes.

283. El Relator Especial *quiere enfatizar* la resolución 24/5 del Consejo de Derechos Humanos *que recuerda a los Estados su obligación de "respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abrazan opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos".*

Visitas de país

284. El Relator Especial confía en que el Gobierno de la República Bolivariana de Venezuela responderá favorablemente a sus solicitudes de visita hechas en 2011 y 2013. Recuerda que el Consejo de Derechos Humanos exhorta a los Estados a que colaboren plenamente con el Relator Especial en el desempeño de sus funciones y consideren favorablemente sus solicitudes para realizar visitas (A/HRC/RES/24/5, OP 6).

IV. Asia Pacific Region

285. The Special Rapporteur sent a total of 51 communications to 18 countries in the Asia-Pacific region in the period covered by this report, and received 24 replies, which indicates a 47% response rate. The Special Rapporteur reiterates the importance of providing substantive replies to his communications, which is a crucial aspect of cooperation with his mandate.

286. The Special Rapporteur remains concerned about the increasingly hostile environment in which human rights defenders are forced to carry out their legitimate activities in the region, including restrictive acts of legislation regarding the reception and use of foreign funding by NGOs and associations, as well as the increasingly prominent trend of threats, harassment, intimidation, acts of violence against human rights defenders committed by both State and non-State actors. In addition to these concerns, the mandate holder is also alarmed at the increased criminalization of activities of human rights defenders, including their arrests, detention and in some cases, ill-treatment and torture in custody.

287. He reiterates that the right to peaceful assembly and of association is crucial for a vibrant civil society and that Governments have a positive obligation to ensure that these rights can be availed of and enjoyed without undue restrictions and interference from state authorities.

288. The Special Rapporteur calls again on States to pay particular attention to the existing extensive legal standards relating to the management of assemblies, in particular

the requirement that force shall not be used in response to assemblies unless it's strictly unavoidable, and if applied, it must be carried out in accordance with international human rights law.

Bangladesh

289. JUA 28/04/2016 Case no. BGD 2/2016 State reply: 02/05/2016. Alleged excessive use of force by police during a demonstration resulting in the death of four protestors.

290. JAL 11/05/2016 Case no. BGD 3/2016 State reply: None. Alleged assassination of two Lesbian Gay Bisexual Transgender and Intersex (LGBTI) rights defenders in Dhaka, Bangladesh.

291. JAL 27/12/2016 Case no. BGD 7/2016 State reply: None. Allegations of excessive use of force against environmental protestors as well as a persistent campaign of harassment and stigmatization directed at environmental human rights defenders through slander and anonymous death threats.

292. JAL 17/02/2017 Case no. BGD 1/2017 State reply: None. Information received concerning the killing of Mr. Abdul Hakim Shimul, a journalist and human rights defender affiliated to the non-governmental organization Odhikar.

Observations

Response to communications

293. The Special Rapporteur regrets that he has received only one reply from the Government to the four communications sent in the reporting period. He wishes to remind the Government that he considers responses to his communications as a crucial part of implementing his mandate.

294. The Special Rapporteur continues to have serious concerns regarding the security of human rights defenders and journalists working on human rights issues in Bangladesh. The Special Rapporteur fears that the lack of state protection afforded to human rights defenders, the prevailing impunity for killings, as well as the reported victim-blaming of those attacked or killed in retaliation to their human rights work has led to increased self-censorship and a shrinking space to promote human rights in Bangladesh.

295. The Special Rapporteur reminds the Government of Bangladesh of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work freely in a safe and enabling environment without fear of threats or acts of intimidation, harassment or violence of any kind.

296. The Special Rapporteur expresses serious concern over the killing of Mr. Abdul Hakim Shimul, a journalist and human rights defender affiliated to the non-governmental organization Odhikar, and urges the authorities to carry out an independent investigation into his murder and to bring the perpetrators to justice. He urges the Government to submit information regarding the investigation and prosecution into this case.

Cambodia

297. JUA 11/05/2016 Case no. KHM 3/2016 State reply: None. Alleged arbitrary arrest and detention of, as well as charges and court procedures against several human rights defenders. Allegations of charges brought against a United Nations staff member.

298. JAL 12/07/2016 Case no. KHM 4/2016 State reply: 25/08/2016. Information received concerning the alleged murder of Mr. Kem Ley.

299. JUA 28/11/2016 Case no. KHM 6/2016 State reply: None. Information received regarding the continued detention of human rights defenders Ms. Lim Mony, Mr. Ny Sokha, Mr. Nay Vanda, Mr. Yi Soksan and Mr. Ny Chakrya, who have been in detention

since April 2016, as well as the situation of human rights defenders Ms. Tep Vanny, Ms. Bov Sophea, Ms. Kong Chantha, and Ms. Bo Chhorvy.

300. JUA 25/11/2016 Case no. KHM 7/2016 State reply: None. Information received regarding the situation of Mr. Sam Rainsy, leader of the opposition Cambodia National Rescue Party (CNRP), who has been prohibited from entering the country, less than a year before communal elections. He has been in self-imposed exile since November 2015, following charges he faces in at least three criminal cases, as well as convictions in three other cases, in relation to defamation, incitement to commit a felony, and incitement to discriminate.

301. PR 12/05/2016 UN rights experts urge Cambodia to stop attacks against civil society and human rights defenders

302. PR 13/07/2017 UN rights experts condemn killing of Cambodian political analyst and activist Kem Ley

Observations

Response to communication

303. The Special Rapporteur regrets that the Government has, at the time of submission of the present report, only responded to one communication out of the four sent in the reporting period. The Special Rapporteur reiterates that he considers responses to his communications as essential part of cooperating with his mandate and urges the Government of Cambodia to provide replies to the three communications that are outstanding.

304. The Special Rapporteur reminds the Government of Cambodia of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work freely in a safe and enabling environment without fear of threats or acts of intimidation, harassment or violence of any kind.

305. The Special Rapporteur remains concerned at what appears to be direct targeting of civil society, characterized by an increase in criminal charges, questioning, court proceedings, instances of harassment and public statements against human rights defenders, parliamentarians, members of opposition parties and United Nations personnel during the current reporting period.

306. The Special Rapporteur is concerned that legislation and the judicial system, as well as threats of arrest, detention and legal action have been used by the Government to restrict free speech, both offline and online, by subjecting human rights defenders to periods of detention, imprisonment and deportation. Serious concerns are also expressed at the Government dispersing workers, trade union representatives and farmers engaging in peaceful assemblies. The Special Rapporteur stresses that States not only have an obligation to protect peaceful assemblies, but should also to take measures to facilitate them. The right to freedom of peaceful assembly is not absolute. Assemblies may be subject to certain restrictions, but such measures must be prescribed by law and "necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others." Any restrictions must meet a strict test of necessity and proportionality. Freedom must be the rule and not the exception. Restrictions should never impair the essence of the right.

307. Regarding the alleged arbitrary arrest, detention and charges brought against, human rights defenders Ms. Lim Mony, Mr. Ny Sokha, Mr. Nay Vanda, Mr. Yi Soksan, Mr. Ny Chakrya, as well as the court proceedings initiated against Mr. Ou Virak, members of ADHOC, the Special Rapporteur is concerned that they may be in retaliation for their peaceful human rights activities, and are in contravention with their legitimate rights to freedom of association, assembly and expression. He is also seriously concerned at repeated statements made by Government officials and institutions on matters under police or court investigation, which may place pressure on the police and the judiciary and prejudices the presumption of innocence.

308. The Special Rapporteur would also like to draw the attention of the Government to Opinion No. 45/2016 of the Working Group on Arbitrary Detention, given at its seventy-seventh session, held on 21-25 November 2016. The Working Group rendered the following opinion: "the deprivation of liberty of Ny Sokha, Ney Vanda, Yi Soksan, Lim Mony and Ny Chakra being in contravention of articles 7, 9, 10, 11 and 20 of the UDHR and of articles 9, 10, 14, 22 and 26 of the ICCPR, is arbitrary". The Special Rapporteur strongly urge the Government to take the necessary steps to immediately release the aforementioned human rights defenders.

309. Regarding the murder of Mr. Kem Ley, who was shot dead at a convenience store in a petrol station on 10 July 2016, and was the founder of the grassroots network Khmer for Khmer and a prominent political commentator who had frequently criticised the government, the Special Rapporteur reiterates his call on Cambodian authorities to carry out a prompt, thorough and impartial investigation into the crime that ensures no perpetrator goes unpunished. This investigation should be conducted by an independent body with no ties to the Government.

310. Concerning the regarding the situation of Mr. Sam Rainsy, leader of the opposition Cambodia National Rescue Party (CNRP), who has been prohibited from entering the country, less than a year before communal elections, the Special Rapporteur regrets that the Government has not provided a response at the time of the submission of the present report. The Special Rapporteur wishes to recall the Human Rights Committee's General Comment No 25 on Article 25 (Participation in public affairs and the right to vote), "any conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria. [...] The exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable". As further stated in the Human Rights Committee's General Comment No. 27 on Article 12 (Freedom of movement), "liberty of movement is an indispensable condition for the free development of a person." The Committee also expressed that "[i]n no case may a person be arbitrarily deprived of the right to enter his or her own country. The reference to the concept of arbitrariness in this context is intended to emphasize that it applies to all State action, legislative, administrative, and judicial; it guarantees that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances." Additionally, the Human Rights Committee "considers that there are few, if any, circumstances in which deprivation of the right to enter one's own country could be reasonable."

China

311. JUA 22/04/2016 Case no. CHN 3/2016 State reply: 22/07/2016 Alleged arbitrary arrest and detention of two women human rights defenders, and lack of access to adequate healthcare.

312. JUA 20/07/2016 Case no. CHN 6/2016 State reply: None. Information received concerning the serious health condition, allegations of torture and ill-treatment, and on-going arbitrary detention of human rights defender Mr. Yang Maodong, commonly known by his pen-name Guo Feixiong.

313. JAL 07/11/2016 Case no. CHN 10/2016 State reply: 05/12/2016 (not available yet) Information received concerning severe restrictions of religious freedom in Tibetan Autonomous Prefecture: mass expulsion of religious practitioners from Larung Gar and Yachen Gar, demolitions of monastic homes in Larung Gar and the cultural and environmental impacts of the mining activities at the Holy Gong-ngon Lari Mountain as well as excessive use of force against, and arbitrary arrest and detention of, peaceful protestors.

314. PR 04/08/2016 UN experts urge China to stop ill-treatment of human rights defender Gao Feixiong

315. PR 03/05/2016 Newly adopted Foreign NGO Law should be repealed, UN experts urge

Observations

Response to communications

316. The Special Rapporteur thanks the Government for its responses to two of the three communications sent in the reporting period and urges the Government to submit a substantive response to the communication sent on 20 July 2016.

317. The Special Rapporteur acknowledges receipt of the responses provided by the Government to two out of the three communications sent during the reporting period and urges the Government to respond to the joint urgent appeal sent on 20 July 2016.

318. The Special Rapporteur expresses serious concerns regarding the situation of human rights defenders in China, including several troubling trends highlighted by the communications sent and press releases issued during the reporting period. These include the targeting of human rights defenders, human rights lawyers and their family members, and in some cases, their detention, in an attempt to silence critical voices and to prevent them from continuing their legitimate and peaceful human rights work.

319. The Special Rapporteur expressed his concerns about the Law on the Management of Foreign Non-Governmental Organizations' Activities, adopted on 28 April 2016, and which entered into force on 1 January 2017. He is of the view that the excessively broad and vague provisions, and administrative discretion given to the authorities in regulating the work of foreign NGOs can be wielded as tools to intimidate, and even suppress, dissenting views and opinions in the country. Concern is expressed that under the provisions of the Law foreign NGOs must be registered with public security organs, and accept 'supervision and management' by these organs, which are given extensive powers, such as summoning NGO representatives for questioning, conducting on-site inspections and seizing documents, making inquiries into, and possibly requesting the freezing of, bank accounts, ordering the suspension of activities, withdrawing the registration certificate, and listing them as 'unwelcome' if they are suspected to carry out illegal activities. The public security organs can also order the detention of NGOs' staff members, and deport those who are foreigners. It is feared that the Law will have a detrimental effect on domestic civil society organizations which depend on funding from foreign NGOs. Additional concern is expressed that numerous provisions in the Law do not comply with international law and standards pertaining to the rights to freedom of association and of peaceful assembly.

320. Concerning the case of the arbitrary arrest and detention of two women human rights defenders, Ms. Zhang Shuzhi and Ms. Liu Jie, while the Special Rapporteur acknowledges the response of the Government dated 22 July 2017, he nonetheless reiterates his concerns that the two human rights defenders did not have access to legal counsel for the entire duration of their detentions and/or proceedings. He is alarmed at the numerous reports indicative of a trend of human rights defenders who were allegedly deprived of due process guarantees of fair trial, including lack of access to legal counsel for the entire duration of legal proceedings.

321. The Special Rapporteur maintains his concerns expressed both in two communications sent, and a press release, on the sentencing of writer and human rights defender Mr. Yang Maodong, commonly known by his pen name Guo Feixiong. While the Special Rapporteur acknowledges receipt of the response of the Government to the communication sent on 23 December 2015, concerning the sentencing of Mr. Maodong, but regrets that no response has so far been provided to the allegations contained in the joint urgent appeal sent on 20 July 2016, regarding the serious health condition of Mr. Maodong, as well the allegations relating to his torture, ill-treatment and on-going arbitrary detention. Serious concern is expressed about the physical and psychological integrity of the human rights defender, and the lack of proper medical care.

322. Concerning the communication sent on 7 November 2016, regarding severe restrictions of religious freedom in the Tibetan Autonomous Prefecture; the alleged mass expulsion of religious practitioners from Larung Gar and Yachen Gar, demolitions of monastic homes in Larung Gar and the cultural and environmental impact of the mining activities at the Holy Gong-ngon Lari Mountain, as well as excessive use of force against,

and arbitrary arrest and detention of, peaceful protestors, the Special Rapporteur thanks the Government for its reply dated 5 December 2016 but regrets that at the time of the submission of the present report the translation was not yet available.

323. The Special Rapporteur is particularly concerned about the peaceful gathering by a group of Tibetans on 31 May 2016, which called for an end to the mining project in Amchok in light of its environmental impact and the damage it would do to their cultural and religious heritage sites and symbols. In response to these protests, on 1 June 2016, local authorities allegedly deployed heavy armed forces and suppressed the peaceful demonstration by beating, and arbitrarily arresting and detaining some protestors. The authorities also tightened surveillance around the area and imposed severe restrictions on communication with the outside world. In this regard, the Special Rapporteur expresses his concerns regarding the excessive use of force by local authorities against protesters in Amchok, which appear to be in violation of their right to freedom of peaceful assembly. He is further concerned about the chilling effect of the circular issued on 3 June 2016 on the exercise of the right to peaceful assembly in Amchok.

India

324. JAL 28/04/2016 Case no. IND 1/2016 State reply: None. Alleged harassment, attacks and threats against five women human rights defenders.

325. JAL 10/06/2016 Case no. IND 2/2016 State reply: None. Information received concerning the alleged inspection and consequent suspension of the Foreign Contribution (Regulation) Act (FCRA) registration of Lawyers Collective for six months and the limiting effect this measure has on the rights to freedom of expression and association.

326. JAL 28/07/2016 Case no. IND 5/2016 State reply: 27/09/2016 Information received concerning the alleged death of over 30 persons and injuries to hundreds in the state of Kashmir between 8 and 14 July 2016.

327. JUA 11/10/2016 Case no. 9/2016 State reply: None. Information received concerning allegations of arbitrary arrest, detention, intimidation and a travel ban against Mr. Khurram Parvez.

328. JAL 21/12/2016 Case no. IND 10/2016 State reply: None. Information received concerning the order to cancel registration of Lawyers Collective to receive foreign contribution under the Foreign Contribution (Regulation) Act (FCRA).

329. JUA 31/01/2017 Case no. IND 2/2017 State reply: None. Information received concerning the arrest and detention of seven human rights defenders, Mr. Chikkudu Prabhakar, Mr. Bhalla Ravindranath, Mr. Durga Prasad, Mr Duddu Prabhakar, Mr. Rajendra Prasad, Mr. Nazeer and Mr. Ramananda Lakshme.

330. PR 19/10/2016 UN experts urge India to release prominent human rights defender detained for over a month

331. PR 16/06/2016 UN rights experts urge India to repeal law restricting NGO's access to crucial foreign funding

Observations

Response to communications

332. The Special Rapporteur regrets that out of the six communications sent in the reporting period, the Government of India has so far only responded to one, despite the serious nature of the allegations. He reiterates that he considers responses to his communications an essential component of implementing his mandate and urges the Government to submit substantive responses to all the outstanding communications.

333. The increasing limitations placed on the legitimate exercise of freedom of expression and opinion, freedom of association and assembly in India during the reporting period are of significant concern to the Special Rapporteur. The Special Rapporteur is

further concerned at the increasingly prohibitive and dangerous environment in which human rights defenders and civil society organizations are forced to operate, increasingly facing arbitrary arrest, detention, harassment, attacks, threats and travel bans for the sole reason of pursuing their legitimate activities in the field of human rights.

334. The Special Rapporteur also wishes to reiterate his earlier call on the Government of India to repeal the Foreign Contribution Regulation Act (FCRA), which is been increasingly used to obstruct civil society's access to foreign funding, and which fails to comply with international human rights norms and standards. These concerns were particularly validated in the context of the decision by the Indian Ministry of Home Affairs to suspend for six months the registration of the non-governmental organization Lawyers Collective, under the FCRA. The suspension was imposed on the basis of allegations that its founders, human rights lawyers Indira Jaising and Anand Grover, violated the act provisions by using foreign funding for purposes other than intended. It is particularly alarming that the suspension was seemingly politically motivated and was aimed at intimidating, delegitimising and silencing Lawyers Collective for their litigation and criticism of the Government's policies.

335. The Special Rapporteur continues to be worried about the situation of women human rights defenders in India and the often hostile environment they are forced to operate in. The case of three women human rights defenders, Ms. Malini Subramanium, Ms. Bela Bhatia and Ms. Soni Sori, and two women human rights lawyers, Ms. Shalini Gera, Ms. Isha Khandelwal, who promote women's rights, including assistance to women who have suffered sexual violence, is indicative of this pattern, given that they experienced mob violence, attacks and threats in relation to their legitimate human rights work. The Special Rapporteur urges the Government to publicly condemn violence against women human rights defenders and to ensure their physical and psychological integrity, along with that of their families.

336. The Special Rapporteur remains concerned about the alleged death of over 30 persons and injuries to hundreds in the state of Kashmir between 8 and 14 July 2016, and the excessive use of force b security forces deployed in response to the protests in question, as well as the indiscriminate shooting of live ammunition and pellets into the crowd. The Special Rapporteur takes note of the detailed response provided by the Government to this communication, including the statement that the protests in question were intentionally violent and aimed at destroying property, and that some of the violence was pre-planned and orchestrated against security force personnel. Notwithstanding the above, the Special Rapporteur does not share the view of the Government that SF personnel displayed absolute restraint and used minimal violence and recalls the standards contained in the Joint Compilation of Practical Recommendations for the Proper Management of Assemblies (A/HRC/31/66), including the recommendation that States should ensure that law enforcement officials have the equipment, training and instructions necessary to police assemblies wherever possible without recourse to any use of force. The Special Rapporteur also notes that the issue of the use of pellet guns has been widely debated in the Indian Parliament, and that the Government has constituted an Expert Committee to suggest other possible alternatives to the pellet gun for non-lethal crowd control.

Indonesia

337. JAL 24/03/2016 Case no. IDN 1/2016 State reply: None. Alleged excessive use of force, killing, torture, arbitrary detention and charges against individuals for the exercise of their rights to freedom of peaceful assembly and to freedom of expression.

338. JAL 02/05/2016 Case no. IDN 4/2016 State reply: None. Alleged excessive use of force, degrading treatment and arbitrary arrest of 20 West Papuan activists in Papua Provinces of Indonesia.

Observations

339. The Special Rapporteur regrets that no responses have been received to either of the two communications sent during the reporting period and reiterates that he considers responses to his communications an essential component of implementing his mandate and urges the Government to submit the outstanding replies.

340. Regarding the case of excessive use of force, killing, torture, arbitrary detention and charges against individuals celebrating West Papuan National Day on 1 December 2015, the Special Rapporteur expresses his most serious concerns to the effect that the killings and injuries had been inflicted in an attempt to restrict the right to freedom of expression and freedom of peaceful assembly by indigenous Papuans. Concerns are expressed that police detained and held protesters overnight; forcibly dispersed crowds and reportedly used excessive force and violence. He further expresses grave concern that the alleged motivation for the aforementioned violations is an attempt to stifle the rights of individuals celebrating Papuan National Day by restricting their rights to freedom of peaceful assembly and freedom of expression.

341. In the case of the arrest and degrading treatment of twenty activists supporting the West Papua National Committee (KNPB), the Special Rapporteur expresses grave concerns about the alleged excessive use of force, violence, harassment and arbitrary arrest as measures of retaliation and intimidation against the legitimate exercise of the rights to freedom of expression and peaceful assembly of West Papuan activists. Serious concern is expressed about what appears to be a crackdown on individuals and organizations that support the West Papua movement in the country. The Special Rapporteur urges the Government to provide substantive responses to the allegations contained in his communications.

Japan

342. JUA 30/05/2016 Case no. JPN 4/2016 State reply: 16/06/2016 Alleged acts of intimidation and reprisal, namely surveillance, of Ms. Kazuko Ito, secretary-general of Human Rights Now and a human rights defender, for facilitating the contacts of the Special Rapporteur on freedom of opinion and expression with civil society during his recent visit to Japan.

343. JUA 28/02/2017 Case no. JPN 1/2017 State reply: 10/04/2017. Information received concerning the arrest and detention of Mr. Hiroji Yamashiro, in relation to his human rights work and the exercise of his rights to freedom of expression and of peaceful assembly protesting against the expansion of military bases in Okinawa.

Observations

Response to communications

344. The Special Rapporteur thanks the Government of Japan for the substantive response submitted to the communication dated 30 May 2016, regarding allegations of surveillance of Ms. Kazuko Ito, who facilitated the organization of meetings of the United Nations Special Rapporteur on freedom of opinion and expression with civil society in Japan. The order to monitor, and the act of monitoring of, human rights defenders and their interactions with United Nations special procedures, if confirmed, would amount to an act of intimidation and reprisal for their cooperation with the United Nations, its representatives and mechanisms in the field of human rights. At the same time, the Special Rapporteur notes the information received from the Government stating that following Ms. Ito's inquiry and the communication received from Special Procedures, the allegation was investigated and both the Public Security Intelligence Agency (PSIA) and the National Police Agency confirmed that they "had never received such instructions nor conducted such research activities as were reported by the media".

345. In the case concerning the arrest and detention of Mr. Hiroji Yamashiro, the Chairman of the Okinawa Peace Movement Centre, a non-governmental organization established for the protection of peace and democracy in Okinawa, the Special Rapporteur expresses concerns about the arrest and detention of the human rights defender, as well as the charges brought against him. The centre has been protesting the construction of the Henoko military base and the withdrawal and closure of the Marine Corps Air station Futenman and the plan to relocate it within Okinawa. The Special Rapporteur is particularly concerned at the allegations of lack of due process, in particular in connection with Mr. Yamashiro's longtime detention, the use of retroactive charges while he continued to be in detention, and the prohibition of visits from his family. At the same time, the Special Rapporteur takes note of the Government's response that Mr. Yamashiro was released on bail on 18 March 2017, in accordance with the court's decision. The Special Rapporteur also takes note of the information provided that since 17 October 2016, Mr. Yamashiro has been arrested three times, and apart from the on-the-spot arrest, the other two arrests were conducted with arrest warrants issued by the court.

Lao People's Democratic Republic

346. JUA 25/07/2016. Case no. LAO 3/2016. State reply: None. Allegations related to the arbitrary arrest, detention and disappearance of three human rights defenders.

Observations

Responses to communications

347. The Special Rapporteur regrets that he has not yet received a response to his communication sent during the reporting period, and reminds the Government of the Lao People's Democratic Republic that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in this letter, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

348. The Special Rapporteur reiterates his utmost concern at the arbitrary arrest, detention, and disappearance of Mr. Somphone Phimmasone, Mr. Soukane Chaithad, and Ms. Lodkham Thammavong, apparently in retaliation for their peaceful and legitimate human rights work and exercise of their rights to freedom of expression and freedom of peaceful assembly. He urges the Government to inform the families of the above mentioned individuals about their whereabouts and the location of their detention, and to provide these individuals with access to effective legal counsel.

349. Overall, the Special Rapporteur urges the authorities of the Lao People's Democratic Republic to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

350. The Special Rapporteur reminds the Government of his pending requests to visit the Lao People's Democratic Republic, as indicated by his letters on 12 December 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Malaysia

351. JAL 01/12/2016. Case no. MYS 7/2016. State reply: None. Allegations regarding violence and harassment against and threats to lives and the lives of relatives of three human rights defenders, as well as the alleged arbitrary detention of one of these defenders.

Observations

Responses to communications

352. The Special Rapporteur regrets that he has not yet received a response to his communication sent during the reporting period, and reminds the Government of Malaysia that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in this letter, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

353. The Special Rapporteur reiterates his serious concern over the alleged arbitrary detention of Ms. Maria Chin Abdullah and the apparent use of "anti-terrorism" provisions to silence dissenting voices and to criminalize the exercise of the rights to peaceful assembly and association.

354. He also reiterates his serious concern at the harassment and crackdown suffered by the civil society coalition BERSIH 2.0 and its members and supporters, particularly Ms. Maria Chin Abdullah, Ms. Ambiga Sreenevasan, and Mr. Mandeep Singh, seemingly as a result of their peaceful and legitimate activities as human rights defenders and the exercise of their rights to freedom of expression, peaceful assembly and association.

355. Overall, the Special Rapporteur urges the authorities of Malaysia to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

356. The Special Rapporteur reminds the Government of his pending requests to visit Malaysia, as indicated by his letters on 23 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider his requests for visits favourably.

Maldives

357. JAL 26/05/2016. Case no. MDV 1/2016. State reply: None. Allegations regarding restrictions on the right to freedom of expression related to the draft legislation "Protection of Reputation and Good Name and Freedom of Expression Bill" in the Maldives.

Observations

Responses to communications

358. The Special Rapporteur regrets that he has not yet received a response to his communication sent during the reporting period, and reminds the Government of Maldives that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the

questions raised in this letter, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

359. He reiterates his concern that the "Protection of Reputation and Good Name & Freedom of Expression Bill," which, subsequent to the sending of the communication was adopted by the Parliament on 9 August 2016 and ratified by the President on 11 August 2016, re-defines the limits of protected speech in a way that is incompatible with the right to freedom of expression as guaranteed under international human rights law. He further reiterates his concern at the broader effects that these undue limitations to freedom of expression could have on Maldivian society as a whole, in particular on the media, civil society organizations, human rights defenders, and in general those voicing dissent.

360. Overall, the Special Rapporteur urges the authorities of the Maldives to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

361. The Special Rapporteur thanks the Government of Maldives for its invitation to visit the country.

Myanmar

362. JAL 16/12/2016. Case no. MMR 5/2016. State reply: 11/04/2017. Allegation concerning curfew orders issued since 2012, instructions against teaching Arabic and planned demolition of structures including residence, business and educational facilities.

Observations

Responses to communications

363. The Special Rapporteur thanks the Government of Myanmar for its response to his communication sent during the reporting period.

364. The Special Rapporteur notes the many human rights challenges that remain to be addressed in a meaningful manner, as identified by the Special Rapporteur on the situation of human rights in Myanmar (A/HRC/31/71). In this regard, he calls on the authorities to ensure that the Law on the Right to Peaceful Assembly and Peaceful Procession is applied and interpreted in a manner that fully complies with international human rights norms and standards. In this regard, he stands ready to provide technical assistance as deemed necessary.

365. In this regard, the Special Rapporteur welcomes the easing of curfew restrictions in Maungtaw, Rakhine State, but remains concerned that the restriction on the gathering of five or more people in public spaces may amount to an arbitrary and discriminatory restriction on the right to freedom of peaceful assembly.

366. The Special Rapporteur remains seriously concerned about the human rights situation in Rakhine State, and the discrimination and persecution suffered by the Rohingya community. He renews his call to the Government to bring positive tangible change in this regard.

Country visit

367. The Special Rapporteur reminds the Government of his pending requests to visit Myanmar, last indicated by letter on 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it

for an additional period of three years, both call upon States to consider his requests for visits favourably.

Philippines

368. JAL 24/04/2016. Case no. PHL 1/2016. State reply: None. Allegations of excessive use of force, arbitrary arrest and detention of farmers and their supporters who were calling for food assistance.

369. JAL 11/11/2016. Case no. PHL 3/2016. State reply: None. Information received concerning alleged excessive and indiscriminate use of force by the police against protesters in Manila on 19 October 2016.

Observations

Responses to communications

370. The Special Rapporteur regrets that he has not yet received a response to his communications sent during the reporting period, and reminds the Government of the Philippines that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in these letters, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

371. The Special Rapporteur reiterates his grave concern at the alleged use of excessive and even lethal force by police officers against peaceful protestors and the alleged arbitrary arrest, detention, and harassment of these protestors.

372. Overall, the Special Rapporteur urges the authorities of the Philippines to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

373. The Special Rapporteur reminds the Government of his pending requests to visit the Philippines, as indicated by his letters sent in September 2011 and October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Republic of Korea

374. JAL 26/07/2016. Case no. KOR 3/2016. State reply: 28/10/2016. Allegations regarding imprisonment of a human rights defender and trade unionist.

Observations

Responses to communications

375. The Special Rapporteur thanks the Government of the Republic of Korea for its response to his communication sent during the reporting period.

376. He notes the information provided refuting the allegations that the five-year sentence brought against Mr. Sang-gyun Han, was for the legitimate exercise of his rights to freedom of expression and freedom of peaceful assembly. He also acknowledges that "the prosecution against Mr. Han was not simply 'organising illegal assembly' but included 'special obstruction of public duty', 'special obstruction of public goods', 'general obstruction of traffic' and violations of the Assembly and Demonstration Act."

377. Nevertheless, the Special Rapporteur reaffirms the concerns stated in his country report of June 2016[1] that "charging assembly participants with certain criminal offenses, such as the general obstruction of traffic, de facto criminalises the right to peaceful assembly."

Sri Lanka

378. JOL 02/12/2016. Case no. LKA 3/2016. State reply: 05/12/2016. Information received concerning the "Policy and Legal Framework of the proposed Counter Terrorism Act of Sri Lanka", insofar as its compatibility with international norms and standards on human rights, particularly as set forth in the International Covenant on Civil and Political Rights, is concerned.

Observations

Responses to communications

379. The Special Rapporteur thanks the Government of Sri Lanka for its response to his communication sent during the reporting period.

380. The Special Rapporteur continues to welcome efforts to repeal and replace Sri Lanka's Prevention of Terrorism Act. However, he reiterates his concern that an overbroad definition of terrorist offenses and expanded police counter-terrorism powers in the new proposed legislation may result in an infringement of the rights to freedom of association and of peaceable assembly.

Country visit

381. The Special Rapporteur reminds the Government of his pending requests to visit Sri Lanka, as indicated by his letters sent in September 2011, October 2013 and April 2015. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Thailand

382. JAL 27/05/2016. Case no. THA 1/2016. State reply: 30/05/2016. Alleged restrictions on the right to freedom of expression related to the upcoming constitutional referendum of 7 August 2016 in Thailand.

383. JAL 27/05/2016. Case no. THA 4/2016. State reply: 01/06/2016. Allegations concerning a series of laws, orders and announcements that unduly interfere with the rights to freedom of opinion and expression and the right to freedom of peaceful assembly and association, and have been used to target civil society.

384. JUA 13/06/2016. Case no. THA 2/2016. State reply: None. Information received concerning the killing, disappearance, and attempted killing of human and land rights

[1] A/RES/32/36/Add.2

defenders, and the threats made against a group of environmental human rights defenders from Pichit Province, for their human rights work and exercise of their rights to freedom of expression and freedom of association.

185. JUA 22/07/2016. Case no. THA 5/2016. State reply: None. Information received concerning the criminal prosecution of 13 activists for campaigning to vote against the upcoming constitutional referendum in Thailand and criminal prosecution of a journalist from Prachatai journal covering the campaign, and the questioning of the journal's editor-in-chief.

186. JUA 04/08/2016. Case no. THA 6/2016. State reply: 05/08/2016. Information received concerning charges brought against three human rights defenders.

Observations

Responses to communications

187. The Special Rapporteur thanks the Government of Thailand for its response to three of his communications out of five sent during the reporting period. He regrets that he has not yet received a response to his fourth and fifth communications.

188. While the Special Rapporteur notes the Government's assertion that Thailand is in a period of transition and reform, he reiterates his grave concern expressed in the two communications of 27 May 2016 that acts, orders, and announcements have been used to criminalize, severely restrict and deter the exercise of the rights of freedom of expression and access to information in Thailand, in particular on those expressing dissenting and critical views. He also reiterates his concern with regard to the reportedly insufficient procedures, lack of adequate judicial oversight, and overly broad definitions of the provisions which purportedly grant powers to security officers to unduly interfere with the rights to freedom of opinion and expression, freedom of peaceful assembly and freedom of association.

189. The Special Rapporteur expresses severe concern for the killing of farmer and environmental human rights defender Mr. Payao Pamoj and the disappearance of land rights defender Mr. Den Kamlae. Mr. Kamlae is a leader amongst networks of local villagers defending their land, and opposing the Kobo San Forest Project, established by the state-owned Forest Industry Organisation. Further concern is reiterated at reports of the alleged attempted assassination of Mr. Supej Kanwej, nephew-in-law of Mr. Chai Bunthonglek, a member of the Southern Peasants' Federation of Thailand (SPFT). Since its creation in 2008 the SPFT movement has been campaigning for community land rights in an ongoing dispute with the palm oil company Jiew Kang Jue Pattana Co. Ltd. Although at least four SPFT members have been killed since 2010, no one has reportedly been held accountable for any of these attacks. Further concern is expressed at the alleged threats and intimidations against members of the Network of Individuals Affected from Gold Mining. The Special Rapporteur is gravely concerned that these events may be directly linked to their legitimate and peaceful activities in the defense of human rights through the exercise of their rights to freedoms of expression, association and peaceful assembly.

190. The Special Rapporteur reiterates his concerns regarding the criminal prosecution against 13 activists of the New Democracy Movement (NDM) for campaigning to encourage voters to reject the draft Constitution on the grounds that the draft lacked important democratic guarantees. In matters of high public and political interest, such as a constitutional referendum, he restates the importance of allowing and encouraging diverging opinions and public debate by citizens, civil society actors and by the media, as well as protecting the rights of individuals to form associations and assemblies designed to encourage opinions and foster debate.

191. The Special Rapporteur acknowledges the Government's response to his communication regarding the charges brought against human rights defenders Ms. Porpen Khongkachonkiet, Mr. Somchai Homlaor and Ms. Anchana Heemmina. Nevertheless, he reiterates his grave concern regarding the use of criminal sanctions on cases related to defamation, which may have a chilling effect on the right to freedom of expression and

association and the legitimate and peaceful work of civil society and human rights defenders.

392. Overall, the Special Rapporteur urges the authorities of Thailand to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

393. The Special Rapporteur reminds the Government of his pending requests to visit Thailand, as indicated by his letter sent in September 2011 and October 2013. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call upon States to consider favourably his requests for visits.

Timor-Leste

394. JAL 08/03/2016. Case no. TLS 1/2016. State reply: None. Alleged attempt to prevent members of a human rights organization from exercising their rights to freedom of peaceful assembly and freedom of expression.

Observations

Responses to communications

395. The Special Rapporteur regrets that he has not yet received a response to his communications sent during the reporting period, and reminds the Government of Timor-Leste that he considers responses to his communications as an important part of the cooperation of governments with his mandate. He looks forward to receiving detailed responses to the questions raised in these letters, at the earliest possible convenience, in conformity with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

396. The Special Rapporteur reiterates his concern that police efforts at intimidating members of the Asosiasaun Hukum, Hak Asasi dan Keadilan (the Law, Human Rights and Justice Association), also known as HAK, may restrict the legitimate exercise of the members of HAK's rights to freedom of peaceful assembly and freedom of expression, and may have a "chilling effect" on human rights defenders and civil society as a whole, particularly those with dissenting opinions, exercising their rights to freedom of peaceful assembly, freedom of association and freedom of expression.

397. More generally, the Special Rapporteur reminds the Government of its positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

Viet Nam

398. JUA 27/05/2016. Case no. VNM 3/2016. State reply: 13/04/2017. Alleged arbitrary detention of a Lutheran pastor and harassment and torture of his wife, in Gia Lai province, Viet Nam.

799. JAL 10/08/2016. Case no. VNM 5/2016. State reply: 28/02/2017. Information received concerning allegations of excessive use of force against, and arbitrary arrest and detention of, peaceful demonstrators, including children.

800. JUA 16/08/2016. Case no. VNM 6/2016. State reply: 13/04/2017. Information received concerning allegations of arbitrary arrest and detention of land rights defender.

801. JAL 04/10/2016. Case no. VNM 7/2016. State reply: 13/04/2017. Information received concerning the arrest, detention and sentencing of environmental human rights defender.

802. JUA 24/02/2017. Case no. VNM 1/2017. State reply: None. Information received concerning alleged arbitrary arrest and detention of an environmental human rights defender and blogger.

Observations

Responses to communications

803. The Special Rapporteur thanks the Government of Viet Nam for its response to four of his communications out of five sent during the reporting period. He regrets that he has not yet received a response to the remaining communication.

804. The Special Rapporteur acknowledges the Government's statement that Pastor Nguyen Cong Chinh was arrested for activities that "constitute the elements of the act 'undermining policy of national unity' under Article 87 of the Penal Code" of Viet Nam, and the statement that the Pastor's wife, Mrs. Tran Thi Hong continues to live unmolested in her permanent residence in Gia Lai province. However, he reiterates his serious concern regarding the alleged persecution and torture against Pastor Nguyen Cong Chinh and Mrs. Tran Thi Hong, and the acts of intimidation against their children, which allegedly took place in retaliation for the peaceful exercise of their religious freedom and freedom of association, and their cooperation with U. S. diplomats in order to denounce their situation and promote freedom of religion in Viet Nam.

805. The Special Rapporteur acknowledges the Government's assertion that "Viet Nam's authorities are studying and drafting Law on demonstrations to specify the provisions of the Constitution with the view to better guaranteeing the exercise of citizens of their fundamental freedoms and promoting better understandings of the rights, obligations and responsibilities of people in the exercise of human rights in a peaceful and lawful manner." The Special Rapporteur urges the Government to ensure the possibility of the legitimate exercise of the rights to freedom of peaceful assembly and expression as an issue of public interest.

806. The Special Rapporteur acknowledges the further information provided by the Government regarding the arrest, detention, and sentencing of environmental human rights defender Ms. Can Thi Theu. However, he reiterates his serious concern that the actions taken against her are linked to her human rights work in the defence of land rights in Vietnam and the legitimate exercise of her rights to freedom of expression and assembly, and his concern about the criminalization of human rights work and the exercise of the rights to freedom of expression and peaceful assembly, as well as the "chilling effect" this may have on human rights defenders and civil society as a whole.

807. The Special Rapporteur also reiterates his grave concern about the alleged arbitrary arrest and incommunicado detention of Ms. Nguyen Ngoc Nhu Quynh, an environmental human rights defender and blogger, and that the charges brought against her through repressive legislation represent a criminalization of her rights to freedom of opinion and expression, freedom of peaceful assembly and association, and seem to be directly linked to her activities as an environmental human rights defender and the legitimate exercise of her fundamental rights.

808. Overall, the Special Rapporteur urges the authorities of Viet Nam to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights

defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

409. The Special Rapporteur reminds the Government of his pending request to visit Viet Nam, as indicated by his letter sent in 2014. He trusts that such a visit would allow him to examine first-hand issues related to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both call on States to consider favourably his requests for visits.

Islamic Republic of Iran

410. JUA 08/04/2016. Case No. IRN 8/2016. State reply: 09/08/2016. Alleged arbitrary detention and charges brought against a human rights defender with serious medical conditions, for her legitimate human rights work and the exercise of her rights to freedom of association and freedom of expression.

411. JUA 22/04/2016. Case No. IRN 7/2016. State reply: 13/06/2016, 22/08/2016. Allegations concerning the continued detention of two political prisoners despite reported serious health concerns.

412. JUA 28/04/2016. Case No. IRN 10/2016. State reply: None. Alleged arbitrary arrest, detention and prosecution of a trade unionist.

413. JUA 07/06/2016. Case No. IRN 17/2016. State reply: None. Information received concerning allegedly unreasonable and arbitrary new charges imposed on imprisoned human rights defender.

414. JUA 07/06/2016. Case No. IRN 16/2016. State reply: 04/01/2017. Information received concerning the alleged arbitrary arrest and detention and denial of due process guarantees to a Lebanese citizen.

415. JUA 22/07/2016. Case No. IRN 21/2016. State reply: 09/08/2016, 28/12/2016, 05/01/2017, 07/02/2017. Information received concerning the alleged arbitrary arrests and detentions of three human rights defenders, all imprisoned under unreasonably harsh and unjust conditions.

416. JUA 16/09/2016. Case No. IRN 25/2016. State reply: None. Information received concerning the allegedly unfair and arbitrary detention of two individuals by the Iranian authorities.

417. JUA 22/11/2016. Case No. IRN 29/2016. State reply: None. Information received concerning the continued harassment of the sister of an individual whose case is under review by the Working Group on Enforced or Involuntary Disappearances, who has endeavoured to promote the rights of survivors and family members of individuals who have suffered human rights violations in Iran, including through participation in peaceful assemblies.

418. JUA 26/01/2017. Case No. IRN 3/2017. State reply: None. Information received concerning the continued harassment of the sister of an individual whose case is under review by the Working Group on Enforced or Involuntary Disappearances, who has endeavoured to promote the rights of survivors and family members of individuals who have suffered human rights violations in Iran, including through participation in peaceful assemblies.

Observations

Responses to communications

419. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to four of his communications out of nine sent during the reporting period. He regrets that he has not yet received a response to the remaining five communications, and reminds the Government that he considers responses to his communications as an important part of the cooperation of governments with his mandate.

420. The Special Rapporteur acknowledges receipt of the substantive response from the Government to the communications regarding the alleged arbitrary detention and charges issued against human rights defender and journalist, Ms. Narges Mohammadi and the alleged arbitrary arrests and detentions as well as denial of adaquate medical services to Mr. Abdolfattah Soltani, Mr. Arash Sadeghi, and Ms. Narges Mohammadi. The Special Rapporteur appreciates the information received by the Government that the prison charges the human rights defenders are facing have been reduced through implementation of article 134 of the Islamic Penal Code and selective pardons. The Special Rapporteur acknowledges that the Government refutes the allegations, nevertheless, he remains seriously concerned that the charges seem to be directly related to their legitimate work as human rights defenders and lawyers, as well as the legitimate exercise of their rights to freedom of opinion and expression and freedom of association. As such, he urges the Government to take all necessary action to release the imprisoned defenders.

421. The Special Rapporteur welcomes the new information received from the Government regarding the new trial and subsequent acquittal of Mr. Seyed Hossein Rownaghi Maleki, who was allegedly arrested and imprisoned solely in relation to writings of a political nature on the Internet and membership in an Internet advocacy group. However, he regrets that no information has been provided about Mr. Mohammad Hossein Rafiee Fanood, who was arrested and detained in connection to his membership of the political group Melli Mazhabi, as well as his writings of a political nature on the Internet, as well as the arrests and detention of Mr. Baquer Namazi and Mr. Kamal Foroughi, and he continues to express grave concern about the possibility that such arrests and deiention may have a "chilling effect" on civil society, particularly those with dissenting opinions, exercising their rights to freedom of association and freedom of expression.

422. The Special Rapporteur reiterates his grave concern about the allegedly arbitrary arrest, detention and sentencing of Mr. Ismail Abdi, in apparent retaliation for his work as a trade unionist and the exercise of his rights to freedom of association and freedom of opinion and expression, and at the allegation that the Government is conflating trade union activities and the legitimate exercise of rights to freedom of association, of peaceful assembly, and of expression, with activities against national security.

423. The Special Rapporteur is also concerned by the practice of adding new charges against human rights defenders while in prison, or detaining human rights defenders following their completion of mandated prison sentences. The Special Rapporteur reiterates his concerns in this regard that the ongoing imprisonment of Mr. Mohammad Sadiq Kaboudvand seems to be directly related to his work as a human rights activist.

424. The Special Rapporteur acknowledges the further information received from the Government regarding the arrest and detention of Lebanese citizen Mr. Nizar Ahmed Zakka. Nevertheless, he reiterates his serious concern that the arrest and detention of Mr. Zakka may have been related to his participation in in a conference on entrepreneurship and employment at the Second International Conference and Exhibition on Women in Sustainable Development, in the exercise of his right to freedom of peaceful assembly.

425. The Special Rapporteur remains concerned by the continued harassment and charges pressed against woman human rights defender Ms. Raheleh Rahemipor, allegedly in retaliation for her cooperation with Special Procedures of the Human Rights Council, as well as in connection with her participation in peaceful assemblies. The Special Rapporteur urges the Iranian Government to immediately drop all charges against Ms. Rahemipour and to halt any acts of retaliation against relatives, witnesses and human rights defenders who

report cases of enforced disappearances, pursuant to article 13 (3) and (5) of the Declaration on the Protection of all Persons from Enforced Disappearance adopted by General Assembly resolution 47/133.

426. Overall, the Special Rapporteur urges the authorities of the Islamic Republic of Iran to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort..

V. Europe and Central Asia region

427. During the present reporting period, the Special Rapporteur sent 18 communications to 10 countries in the Europe and Central Asia region. He received 18 responses, which indicates a 90% response rate. The Special Rapporteur welcomes the exceptionally high number of responses received to his communications and encourages the Governments concerned to continue their cooperation with his mandate.

428. The majority of the communications were sent in regard to disproportionate restrictions on the right to freedom of association, and another large portion related to draft laws, amendments to existing laws or new legislation which were perceived as having the potential aim or effect of restricting the right to freedom of association.

429. The Special Rapporteur reiterates his concern for associations, including human rights organizations, and minority groups, including religious groups, who are subject to persecution for their work.

430. Additionally, a number of countries of the region took administrative and legislative measures to counter the threats of, and acts of terrorism, which in many cases raised concerns from the point of promoting and protecting human rights, in particular during states of emergency. The threat of terrorist attacks appears to be increasingly frequently used as a pretext to clamp down on human rights defenders and organizations, to portray them as threats to the security of the nation or as agents acting on behalf of foreign powers, which may result in their stigmatization and the eventual curtailing of their legitimate work.

431. Measures of increased surveillance; of limiting access to the internet and legislative acts aiming at mitigating threats of cyber warfare all have the potential to have a detrimental effect on the work of individuals and organizations in defence of human rights and fundamental freedoms, while curtailing their rights to freedom of association, assembly and expression.

432. The Special Rapporteur also observes the worrying trend of criminalization of the activities of human rights defenders, who often face significant criminal charges for acts or omissions which should only be sanctioned under civil or administrative law.

433. In addition to the increased criminalization of the work of human rights defenders, the trends observed also point to an increased level of arrests, detentions, criminal charges against and even physical violence against those carrying out legitimate human rights work in various countries. The Special Rapporteur wishes to remind Governments that they have a positive obligation under international human rights law to protect human rights defenders, and that they should take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of the legitimate exercise of their rights.

Estonia

434. JAL Case no. EST 1/2016 State reply: 02/08/2016. Alleged stigmatization of a human rights defender advocating for the rights of linguistic minorities. According to the information received, on 12 April 2016, the Estonian Internal Security Service published its

2015 annual review, in which it mentioned Ms. Alisa Blintsova in the context of posing a threat to the constitutional order of the Estonian state.

Observations

Responses to communications

435. The Special Rapporteur acknowledges the response of the Government of Estonia to the communication sent on 27 May 2016.

436. The Special Rapporteur remains concerned at the alleged stigmatizing portrayal of woman human rights defender Ms. Blintsova in the official report of the Estonian Internal Security Service. The report mentioned the human rights defender twice in the context of threats against the Estonian State and public order. In the first instance the report referred to an interview the human rights defender gave to the news programme "Vesti" of the Russian television station Rossiya (7 June 2015), and in another instance to Ms. Blintsova's membership in the Russian School in Estonia and her comments on EU refugee policy on the Russian television channel NTV on 26 July 2015. The information in the report was accompanied by a picture of Ms. Blintsova and presented her activities as an example of a foreign state's influence operations conducted through government controlled media channels.

437. In its reply of 2 August 2016, the Government explained that referral to Ms. Blintsova's activities is justified by the fact that they constitute an example of a foreign state using the European migration crisis with an aim to instigate ethnic tensions in Estonia as well as to provoke confrontation between the members of the EU and NATO by distributing false and incorrect information. The Government also acknowledged that the publication of one's name in the EISS annual review may interfere with one's private life, but asserted that in justified cases the publication of a person's name by the EISS in connection with threats to national security and constitutional order is necessary and proportionate.

438. Nevertheless, the Special Rapporteur notes that disclosing Ms. Blintsova's identity and publishing her photographs does not appear to be necessary for understanding the concerns expressed in the reports. Further, referral to individuals in such reports might not only have a stigmatizing effect for the person concerned and expose her to risks, but may also have a negative impact on the image of human rights defenders in Estonia generally.

France

439. JAL 28/12/2015 Case no. FRA 7/2015, State reply: 26/02/2016 Préoccupations exprimées au sujet de l'application de la loi n° 2015-1556 du 30 novembre 2015 relative aux mesures de surveillance des communications électroniques internationales et de la loi n°2015-1501 du 20 novembre 2015 prorogeant l'application de la loi n° 55-385 du 3 avril 1955 relative à l'état d'urgence et renforçant l'efficacité de ses dispositions, au regard des obligations internationales de la France en matière de droits de l'homme.

440. PR 19/01/2015 Experts de l'ONU appellent la France à protéger les libertés fondamentales dans la lutte contre le terrorisme.

Observations

Réponse aux communications

441. Le Rapporteur spécial remercie le Gouvernement français pour sa réponse détaillée et substantielle fournie à sa lettre du 28 décembre 2015 et reconnaît les circonstances exceptionnelles ayant conduit à la mise en place et à la prolongation de l'état d'urgence et à l'adoption de la loi n° 2015-1556 du 30 novembre 2015 relative aux mesures de surveillance des communications électroniques internationales et la loi n°2015-1501 du 20 novembre 2015 prorogeant l'application de la loi n° 55-385 du 3 avril 1955 relative à l'état

d'urgence et renforçant l'efficacité de ses dispositions. Il prend également note des 14 A/HRC/32/7. A/HRC/34/52/Add.1 83 garanties mises en place pour éviter une application abusive des lois en question. Néanmoins, le Rapporteur spécial continue d'être préoccupé par les effets de l'application de ces lois car certaines dispositions pourraient, malgré les garanties mises en place, imposer des restrictions excessives et disproportionnées à l'exercice légitime du droit à la liberté d'expression, du droit à la vie privée, du droit à la liberté de réunion pacifique et la liberté d'association. De manière générale, le Rapporteur spécial reste préoccupé par la formulation extrêmement vague et la manque de précision d'un nombre de dispositions clés contenues dans ces lois.

442. Le Rapporteur spécial aimerait rappeler au Gouvernement que toute mesure visant à lutter contre le terrorisme et à préserver la sécurité nationale doit être conforme aux obligations de l'État au titre du droit international. Les mesures doivent répondre aux critères de nécessité et de proportionnalité et ne doivent pas entraver les activités et la sécurité des individus, des groupes et des organes de la société qui œuvrent à la promotion et à la défense des droits de l'homme.

443. Le Rapporteur regrette que les explications fournies par le Gouvernement concernant les différentes techniques de surveillance qui peuvent, ou ne peuvent pas, être utilisées et les conditions sous lesquelles ces informations peuvent être partagées et avec qui, soient formulées d'une manière assez vague. Il souhaite rappeler qu'en plus de devoir satisfaire les principes de nécessité et de proportionnalité, les restrictions au droit à la liberté d'expression et au droit à la vie privée doivent être expressément fixées par la loi avec suffisamment de clarté et de précision quant à la nature et à la portée des restrictions et leurs conséquences.

444. Le Rapporteur spécial reste préoccupé par le fait que la loi puisse établir des différents niveaux de protection, selon le lieu où se trouvent les personnes sujettes aux mesures de surveillance (par exemple différentes périodes de conservation des contenus et données). Il est extrêmement important pour la loi de formuler des règles et des procédures qui respectent et protègent de la même manière les droits de toutes les personnes indépendamment de leur nationalité ou du lieu où elles se situent.

445. Le Rapporteur spécial reste préoccupé par les dispositions permettant la dissolution d'organisations ou d'associations, sans procédure de contrôle judiciaire, la formulation extrêmement floue des associations visées et le fait que ces dispositions peuvent permettre d'imputer à une association le comportement passé de quelques-uns de ses membres, ainsi que par le fait que ces mesures de dissolution d'associations ou de groupements, adoptées dans le cadre de l'application de l'état d'urgence, ne prennent pas fin une fois que ce dernier ne soit plus appliqué.

446. Le Rapporteur spécial prend note qu'à la date de l'envoi de la réponse par le Gouvernement français, l'État n'avait jamais fait usage des dispositions dérogatoires permettant la dissolution d'organisations ou d'associations et d'interruption de services de communications au public en ligne et des sites internet. Cependant, ce fait ne peut enlever en aucun cas les préoccupations qu'il a exprimées à propos de ces dispositions.

447. Concernant les procédures de perquisition, la loi n° 2015-1501 indique que celles-ci peuvent avoir lieu « lorsqu'il existe des raisons sérieuses de penser que ce lieu est fréquenté par une personne dont le comportement constitue une menace pour la sécurité et l'ordre publics ». Le Rapporteur spécial est inquiet par la formulation t vague de ces dispositions. D'autre part, les perquisitions concernent les équipements informatiques, y compris les supports de stockage présents sur les lieux ou accessibles, permettraient des perquisitions sur d'autres ordinateurs en réseaux, ce qui peut amener à la perquisition de très nombreux systèmes de stockage et équipements, de la vie sociale et activité numérique de la personne, en fonction de ce qui sera accessible depuis les équipements initiaux.

448. Le Rapporteur spécial exprime également son inquiétude concernant les dispositions permettant l'interruption de services de communication au public en ligne et des sites internet. Les experts indépendants des Nations Unies avaient déjà exprimé leurs inquiétudes quant à ces dispositions dans une communication conjointe envoyée par plusieurs procédures spéciales des Nations Unies. Le Rapporteur spécial réitère ces inquiétudes, notamment en ce qui concerne l'absence de contrôle judiciaire sur les

procédures de blocage des sites internet et sur le fait que les recommandations de l'autorité administrative n'aient pas de caractère juridiquement contraignant.

449. Par ailleurs, le Rapporteur spécial exprime son inquiétude concernant plusieurs dispositions autorisant le Gouvernement à recourir à des techniques de renseignement et de surveillance des communications internationales visant la défense et la promotion d'intérêts fondamentaux de l'État; des dispositions définies de manière vague : notamment la collecte de communications internationales est autorisée dans un ensemble de circonstances extrêmement vastes ; ou l'application de délais prolongés de conservation de ces données, sans fournir les garanties nécessaires d'une autorisation et d'un contrôle judiciaire indépendant préalables. Ces mesures peuvent restreindre l'exercice légitime du droit à la liberté d'expression, et du droit à la vie privée et contrevenir en particulier aux principes fondamentaux de nécessité et de proportionnalité.

Kazakhstan

450. JUA 09/03/2016 Case no. KAZ 1/2016 State reply: 20/05/2016 Alleged arbitrary arrest, detention and sentencing of a human rights defender and blogger, Mr. Ermek Narymbaev.

451. JUA 09/05/2016 Case no. KAZ 2/2016 State reply: 18/05/2016, 19/05/2016, 05/10/2016 Alleged arbitrary arrest, detention and criminal charges brought against protesters, human rights defenders and journalists for exercising their rights to freedom of peaceful assembly and of expression.

452. JAL 04/11/2016 Case no. KAZ 3/2016 State reply: 04/01/2017 Alleged arrest, detention and criminal proceedings against two human rights defenders, Mr. Max Bokayev and Mr. Talgat Ayan, as well as refusal of access to adequate healthcare for Mr. Bokayev.

453. JAL 20/12/2016 Case no. KAZ 4/2016 State reply: 27/02/2017 (not available yet) Alleged investigation and harassment against the human rights non-governmental organization Kadyr-Kassyet (NGO Dignity).

454. PR 12/05/2016

455. UN human rights experts urge Kazakhstan to halt clampdown on land reform protesters

456. PR 06/12/2016

457. "Kazakhstan should release rights defenders Bokayev and Ayan" – UN experts

Observations

Responses to communications

458. The Special Rapporteur wishes to thank the Government of Kazakhstan for responding to all the communications sent during this reporting period.

459. Regarding the case of Mr. Ermek Narymbaev, human rights defender and blogger, who was subjected to judicial harassment and charges related to the use of social media to incite national discord and insult the honour and dignity of the Kazakh nation, under article 174 (1) of the Criminal Code, the Special Rapporteur remains concerned that the charges are related to Mr. Narymbaev's legitimate work in the field of human rights and his right to freedom of expression. The Special Rapporteur is additionally seriously concerned at the fact that Mr. Narymbaev was sentenced to three years of deprivation of liberty, including a prohibition on engaging in the activities of civil society organizations for five years. The Special Rapporteur takes note of the response of the Government stating that Mr Narymbaev's Facebook post 'contained elements inciting national discord and insulting the honour and dignity of the Kazakh nation' but wishes to remind the Government that any restriction of freedom of expression should be compatible with the provisions of article 19 (3) of the ICCPR, ratified by Kazakhstan on 24 January 2006, and be, inter alia, proportionate. Given the fact that criminal proceedings against, and sentencing to

deprivation of liberty of human rights defenders under the provisions of the Criminal Code for posts on social media platforms might have a significant chilling effect on the exercise of freedom of expression online in Kazakhstan, the Special Rapporteur questions the proportionality of these criminal charges. The Special Rapporteur remains concerned about authorities resorting to the criminalization of the right to freedom of expression on the Internet, and calls on the Government to respect and guarantee that right and ensure an enabling environment for human rights defenders to cary out their activities, online as well as offline, without fear of persecution.

460. Regarding the alleged arbitrary arrest, detenion and criminal charges brought against protesters, human rights defenders and journalists for exercising their rights to freedom of peaceful assembly and of expression in the framework of a number of protests that took place from 24 April to 1 May 2016, the Special Rapporteur remains seriously concerned. The protesters criticized amendments introduced to the Land Code, which governs the rental of agricultural land to foreigners, increasing the maximum rental period to 25 years and authorizing transactions by auction. In response to these protests, approximately 90 individuals were arrested, interrogated, detained and criminally charged for their activities and their legitimate exercise of their rights to freedom of assembly and association, and the right to freedom of expression.

461. The human rights defenders, journalists and protestors arrested include: Mr. Max Bokayev (human rights defender from the human rights organization Arlan), Ms. Olga Klimonova (member of the human rights organisationthe National Prevention Mechanism Against Torture), Ms. Alima Abdirova (member of thehuman rights organisations Ary Ana and the National Prevention Mechanism Against Torture), Mr. Galym Akulbekov (human rights defender), Mr. Maksat Ilyasuly (a member of the Antiheptyl movement and Blyalov), Mr. Galym Ageleuov (Director of the human rights organisation Liberty), Mr. Zhanbolat Mamay (a leader of the youth opposition movement Rukh Pen Til), Mr. Issatay Utepov and Mr. Baurzhan Alipkaliyev. The Special Rapporteur takes note of the Government's response that the land reforms are part of Kazakhstan's overall drive to modernize its economy, but remains concerned by the alleged arbitrary arrests of protesters, human rights defenders and journalists for legitimately exercising their rights to freedom of peaceful assembly and association, and freedom of expressior. The Special Rapporteur expresses particular concern at the criminal charges brought against some protestors, human rights defenders and journalists for reporting on the issue in the interest of the public.

462. Regarding the prosecution against Mr. Max Bokayev and Mr. Talgat Ayan in connection with the above-mentioned protests, who were arrested on charges of 'calling for a non-sanctioned meeting', the mandate holder expresses concern that these charges may be directly related to their peaceful defence of land rights in Kazakhstan. The Special Rapporteur also notes with regret that on 20 January 2017, the Atyrau Regional Court reportedly upheld the decision to sentence Mr. Bokayev and Mr. Ayan to five years in prison. The Special Rapporteur notes the Government's reply that that the persons in question were prosecuted for committing acts aimed at inciting social and ethnic hatred that are categorized as crimes against the peace and security of humanity under criminal law, but maintains his view that their sentencing appears to be in violation of articles 19, 21 and 22 of the ICCPR.

463. In the case of the investigation and harassment of the human rights non-governmental organization Kadyr-Kassyet (NGO Dignity), the Special Rapporteur is concerned that these actions are linked to the legitimate activities of the organization in defence of human rights, in particular their activities relating to protecting human rights defenders in the country. It is particularly worrisome that the investigation appears to be aimed at undermining the financial viability of the NGO and at curtailing and obstructing its work. The Special Rapporteur acknowledges receipt of the Government's response dated 27 February 2017, which states that the tax audit of Kadyr-Kassyet's financial situation by the State Revenue Committee was carried out in relation to a complaint filed by a private individual. While the Special Rapporteur acknowledges that unscheduled tax inspections are a legitimate means for States to ensure that the functioning of non-governmental organizations is in compliance with national law, they should not be used as

indiscriminate tools to clamp down on civil society organizations expressing views or carrying out activities that may be contrary to that of the Government.

Kyrgyz Republic

464. JAL 30/05/2016 Case no. KGZ 1/2016 State reply: None. Alleged threats made to a human rights lawyer in connection to his litigation and legal assistance focused on combating torture and arbitrary detention.

Observations

Response to communication

465. The Special Rapporteur regrets that he has not yet received a response to his communication sent on 30 May 2016 and reminds the Government of the Kyrgyz Republic that he considers responses to his communications as an important part of the cooperation of Governments with his mandate.

466. In the case of telephone threats against human rights lawyer Mr. Sardorbek Abdukhalilov, he reiterates his concerns that the threats received by Mr Abdukhalilov appear to be directly related to his activities as human rights lawyer, and in particular to the legal complaint submitted before the Jalal-Abad city court to recognize that the conditions in the temporary detention facility of the Jalal-Abad city police department are discriminatory on the basis of gender and constitute inhuman or degrading treatment. The Special Rapporteur urges the Government of the Kyrgyz Republic to take all necessary measures to ensure the physical integrity of Mr. Abdukhalilov and also to ensure that human rights defenders are able to carry out their legitimate activities without threats and retaliation of any kind. The Special Rapporteur also urges the Government to carry out investigations into the threats and to ensure that the perpetrators are brought to justice.

Latvia

467. JAL 15/04/2016 Case no. LVA 1/2016 State reply: 09/06/2016. Analysis of the draft law "On amendments to the Latvian Criminal Law".

Observations

Response to communication

468. The Special Rapporteur wishes to thank the Government of Latvia for the detailed response provided to his communication sent on 15 April 2016, concerning considerations by the Latvian Parliament of the draft law "On Amendments to the Latvian Criminal Law"..

469. On 3 March 2016, the Parliament of Latvia approved the draft law "On Amendments to the Latvian Criminal Law" on their first reading. The draft amendments were reportedly prepared by three Latvian security services, but were tabled in Parliament by standing committees on Legal Affairs and on National Security. The amendments change the existing chapter of the Latvian Criminal Law on "Crimes against the State". The amendments have been considered in accordance with the urgent legislative procedure, which reportedly circumvents the normal procedure for adopting laws before the Latvian Parliament. On 21 April 2016, the Parliament adopted the amendments in their final reading and they entered into force on 11 May 2016. The Special Rapporteur takes note of the Government's reply that Parliament postponed the second reading of the draft amendments to 21 April 2016 in order to allow for a comprehensive discussion to address all concerns raised, as well as of the fact that the draft amendments were examined by the Standing Working Group on Criminal Law, which includes the representatives of the Ombudsman's Office and the Office of the Representative of Latvia before International Human Rights Organizations. Nevertheless, the Special Rapporteur reiterates his concern that while the amendments seek to address the national security threats of hybrid and information warfare,

the vague wording of the amendments may have broad implications for the exercise of the rights to freedom of opinion and expression and freedom of association.

Russian Federation

470. JAL 25/02/2016 Case no. RUS 2/2016 – (contained in last report) State reply: 23/05/2016 (now translated) Alleged liquidation of human rights NGO Agora by the Supreme Court of the Republic of Tatarstan.

471. JAL 12/04/2016 Case no. RUS 3/2016 State reply: 23/05/2016. Allegations of repeated harassment and attacks on a human rights organization and several human rights defenders and journalists.

472. JAL 14/04/2016 Case no. RUS 4/2016 State reply: 31/05/2016. Alleged forced eviction of a human rights organization.

473. JAL 26/05/2016 Case no. RUS 6/2016 State reply: None. Alleged unwarranted charges filed against and sentencing of a human rights defender.

474. JOL 28/07/2016 Case no. RUS 7/2016 State reply: 12/10/2016 Allegations concerning the amendments to the Criminal Code and other laws, collectively known as the "Yarovaya law".

475. JAL Case no. RUS 8/2016 State reply: 14/10/2016 Allegations concerning the criminal prosecution of a woman human rights defender.

Observations

Responses to communications

476. The Special Rapporteur wishes to thank the Government for the responses provided to four out of the five communications sent during the reporting period and requests the Government of the Russian Federation to also reply to the communication sent on 26 May 2016.

477. The Special Rapporteur expresses concern regarding the continuing insecurity produced by the environment in which human rights defenders are forced to operate in the Russian Federation, as well as the continued persecution of defenders in the course of their activities, both by State and non-State actors, through arbitrary arrests and detention.

478. He is particularly concerned by the use of legislation to criminalize and/or obstruct the work of human rights defenders through the undue application of the Federal Law "On Non-commercial organizations which Carry Functions of Foreign Agents", commonly known as the 'Foreign Agent' Law, and the consequences of its implementation, given that in the past four years, over 100 NGOs have reportedly been included on the list of "foreign agents" in Russia, of which 27 have been closed down. The Law has a highly detrimental impact on civil society and appears to be aimed at intimidating human rights defenders and organizations, particularly those with dissenting opinions, and deterring or stopping them from exercising their legitimate rights to freedom of association and freedom of expression in the country.

479. In this context, the Special Rapporteur reiterates his concerns from his previous observations report warning against justifications for excessive intrusive methods based on the need for greater transparency in the civil society sector and emphasizes the highly detrimental impact of such legislation on human rights organizations. He recalls that the Government has a negative obligation not to obstruct the exercise of the right to freedom of association and a positive obligation to ensure that civil society, including human rights defenders, can carry out their legitimate activities free from undue restrictions. Finally, he reiterates his call on the Government to ensure that the Law and its application are consistent with international human rights law, including, inter alia, the International Covenant on Civil and Political Rights, ratified by the Russian Federation in 1973.

480. Regarding the case of liquidation of the NGO Agora by the Supreme Court of the Republic of Tatarstan, included in last year's observations report, the Special Rapporteur notes that the response of the Government dated 23 May 2016 is now available in translation. The Special Rapporteur takes note of the information provided by the government to the effect that the decision that the association should be disbanded was taken on 10 February 2016 by the Supreme Court of the Republic of Tatarstan in response to an application filed by the department of the Ministry of Justice of the Russian Federation for the Republic. Pursuant to this decision, Agora has been disbanded and removed from the consolidated State register of legal entities. As of April 2016, the decision of the Supreme Court of the Republic of Tatarstan was not yet final, since, on 14 March 2016, the organization lodged an appeal, which has been transmitted, along with the case materials, to the Supreme Court of the Russian Federation and that at present the case is pending consideration. The Special Rapporteur wishes to stress that the liquidation of the NGO would establish a negative precedent and would have a detrimental effect on the environment in which human rights defenders operate in the country.

481. In the case of physical attacks on and the arson of a bus carrying a group of human rights defenders and journalists, Ms. Ekaterina Vanslova, Mr. Ivan Zhiltsov, Mr. Egor Skovoroda, Ms. Alexandrina Elagina, Mr. Mikhail Solunin, Mr. Anton Prusakov, Ms. Lena Maria Persson Loefgren, Mr. Oeystein Windstad and Mr. Bashir Pliev, as well as an additional attack on a human rights defender, Mr. Igor Kalyapin, the Special Rapporteur expresses serious concerns regarding attacks on the Joint Mobile Group (JMG), in particular in light of the fact that during the reporting period additional information has been received of further attacks on members of the group. The Special Rapporteur appreciates the response of the Government stating that in response to the attack on 9 March 2016 on the border of the Chechen Republic and the Republic of Ingushetia, the investigation department for the Republic of Ingushetia under the Ministry of Internal Affairs of the Russian Federation instituted criminal proceedings on the same day on the basis of evidence of offences contrary to articles 213 (2) (hooliganism) and 167 (2) (intentional destruction of or damage to property) of the Criminal Code. In this connection, the Special Rapporteur would appreciate receiving additional information regarding the investigative and procedural acts being carried out and inquiries made since the submission of the Government's reply.

482. Regarding the forced eviction of the human rights organization Civic Assistance Committee, the Special Rapporteur expresses serious concern about the alleged reason for the forced eviction of the NGO, which appears to be directly linked to the peaceful and legitimate human rights work of the organization, especially protecting the rights of refugees and migrants in the country, and calculated to restrain the legitimate exercise of the rights to freedom of association and freedom of expression of its members. He also reiterates his concern about the broader effect of these actions, as well as the negative consequences of the implementation of the Law on Introducing Amendments to Legislative Acts of the Russian Federation in Part Regulating Activities of Non-commercial Organizations which Carry Functions of Foreign Agents, as mentioned above.

483. Regarding charges filed against, and the sentencing of human rights defender Mr. Sergey Nikiforov, the Special Rapporteur regrets that no response from the Government has been received during the reporting period. He also expresses further concern at the allegations that the sentencing of Mr. Nikiforov is related to his and the Ivanovkoye village's public opposition and legitimate voicing of concern about the environmental and human rights impacts of the mining project of Petropavlovsk mining company, which is a matter of public interest.

484. Concerning amendments adopted to the Criminal Code, collectively known as "Yarovaya Law", the Special Rapporteur is particularly concerned about the new criminal code article that outlaws "inducing, recruiting, or otherwise involving" others in the organization of mass unrest. Violations of this article are punishable with a fine of between 300,000 and 700,000 roubles, or a term of imprisonment of between five and ten years. This provision significantly limits the ability of ordinary citizens to express political dissent and criticism through peaceful protests, demonstrations and related activities, and might

have a disproportionate chilling effect on minorities, activists, political opposition and other vulnerable groups that rely on such peaceful means to convey their opinions and views.

485. Finally, in the case of criminal prosecution of woman human rights defender Ms. Valentina Cherevatenko for 'malicious evasion of duties' under the Foreign Agents Law, the Special Rapporteur remains concerned at the unprecedented criminal charges brought against Ms. Cherevatenko in relation to her human rights work and to the exercise of her right to freedom of association. Further concern is expressed that the registration requirements for associations and criminal liability for their non-compliance unduly restricts the right to freedom of expression and freedom of association. He is also concerned about growing criminalization of legitimate and peaceful human rights work in the Russian Federation and the chilling effect it may have on the broader exercise of the rights to freedom of expression and freedom of association.

Tajikistan

486. JAL 03/05/2016 Case no. TJK 2/2016 State reply: 23/06/2016 Allegations concerning provisions of the Law on Public Associations that unduly restrict the rights to freedom of association and expression in Tajikistan and are not in compliance with international human rights law and standards.

Observations

Response to communication

487. The Special Rapporteur acknowledges the response of the Government of Tajikistan to his communication sent on 3 May 2016. However, he reiterates his concerns at the amendments adopted to the Law on Public Associations, under which public associations are required to report to the Ministry of Justice on the receipt of "foreign funding" prior to dispensing it.

488. The Special Rapporteur takes note of the argument presented by the Government in its reply dated 23 June 2016, that access to foreign funding is not guaranteed under article 22 of the ICCPR. However, the Special Rapporteur wishes to reaffirm that access to funding constitutes one of the aspects that enable human rights defenders and non-governmental organizations to carry out their work, and funding restrictions that impede their ability to pursue their activities constitute an interference with the provisions of article 22 of the ICCPR. Furthermore, the Special Rapporteur wishes to recall that under the provisions of article 13 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/53/144) "[e]veryone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration".

489. Additionally, the scope of protection of the right to freedom of association has been clarified in a number of decisions by the Human Rights Committee, including in communication No. 1274/2004, which provides that the right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association freely to carry out its statutory activities (para 7.2 of CCPR/C/88/D/1274/2004).

490. The Special Rapporteur remains concerned that the amendments have the potential to disproportionately affect the work of human rights defenders and their organizations and may have a chilling effect on civil society in Tajikistan.

The Former Yugoslav Republic of Macedonia

491. JUA 31/03/2016 Case no. MKD 2/2016 State reply: None. Allegations of physical violence by law enforcement officials against migrants involved in peaceful protests and of collective expulsion of migrants in possible violation of the principle of non-refoulement.

Observations

Response to communication

492. The Special Rapporteur regrets that no response has been received to date to the communication sent on 11 March 2016, which concerned physical violence by law enforcement officials against migrants and asylum seekers peacefully protesting on the Greek side of the border of the border between Greece and the Former Yugoslav Republic of Macedonia, and their collective expulsion in a possible violation of the principle of non-refoulement and with a lack of due process guarantees. He is particularly concerned by the overnight detention of human rights defenders and journalists following their participation in a march of migrants and asylum-seekers from Idomeni, Greece, towards the border with the former Yugoslav Republic of Macedonia on 14 March 2016. The Special Rapporteur regrets that these actions may have a deterrent effect on other activists and human rights defenders who advocate for the rights of migrants and asylum seekers, as well as on the reporting on the situation of migrants, and the right to access information regarding these matters.

Turkey

493. JUA 28/07/2016. Case no. TUR 6/2016. State reply: 22/08/2016, 06/12/2016. Information received concerning a series of repressive measures taken following the attempted coup on 14 July 2016, including the arrest of human rights defenders and journalists.

494. JAL 21/09/2016. Case no. TUR 5/2016. State reply: 20/01/2017. Alleged destruction of historic buildings and residential neighbourhoods in the Sur district and Diyarbakir city, mainly Kurdish populated areas, which have been on-going since December 2015, and the plan to expropriate the inhabitants of the city of their home and lands for urban renewal and regeneration, which would drastically change the ethnic, social and cultural demographics of the region.

Observations

Response to communications

495. The Special Rapporteur thanks the Government of Turkey for its response to his communications sent during the reporting period.

496. The Special Rapporteur acknowledges the Government's release of human rights lawyer and journalist Mr. Orhan Kemal Cengiz from custody and the lack of criminal charges against Mr. Cengiz's wife, also a journalist, Ms. Sibel Semira Hurtas. Nevertheless, the Special Rapporteur reiterates his serious concern over the shutdown of critical media outlets, the harassment, arrest and detention of an alarmingly high number of journalists, and the severe compromise of academic and educational freedoms, as well as the severe crackdown on civil society and human rights defenders in the country, which have all been addressed in a number of communications from the Special Procedures.

497. The Special Rapporteur acknowledges the Government's statement that repressive measures in the Sur district and Diyarbakir city were undertaken in the context of ongoing terrorist attacks. However, he reiterates his grave concern at the apparent use of "anti-terrorism" provisions to silence dissenting voices and to stifle the exercise of the rights to peaceful assembly and association.

498. Overall, the Special Rapporteur urges the authorities of Turkey to protect and promote the rights to free association and peaceful assembly. In this regard, he reminds the Government of its positive obligation to ensure that civil society, including human rights defenders and political activists, can carry out their legitimate work free in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.

Country visit

499. The Special Rapporteur thanks the Government of Turkey for its invitation to visit the country.

United Kingdom of Great Britain and Northern Ireland

500. JOL 28/07/2016 Case no. GBR 2/2016 State reply: 20/10/2016. Analysis of the Detention Services Order 04/2016, entitled 'Detainee Access to the Internet', issued by the Home Office of the United Kingdom on 17 May 2016.

501. PR 11/01/2016 UN experts urge review of surveillance bill threatening freedom of expression

Observations

Response to communication

502. The Special Rapporteur wishes to acknowledge receipt of the reply of the Government dated 20 October 2016, which provides detailed responses to the concerns raised in the present communication. The Order which was the subject of the communication was issued by the UK Home Office in response to an independent review into the welfare of immigration detainees, which criticized restrictions on internet access. The Order applies to immigration removal centres (IRCs), pre-departure accommodation (PDA) and residential short-term holding facilities (STHF). The stated purpose of the Order is to "ensure that detainees have reasonable and regulated access to the internet whilst ensuring that the security of the detention estate is not undermined" (article 2).

503. The Special Rapporteur acknowledges the response of the Government calling attention to the fact that the Government has entered a reservation to the ICCPR with respect to immigration matters. He further takes note of the information provided by the Government stating that immigration removal centres are provided for in law by the Immigration and Asylum Act 1999. The Act includes obligations placed upon the Executive by Parliament to require the enaction of secondary legislation, and this rule-making power has been exercised by the Secretary of State to make the Detention Centre Rules 2001. However, Detention Service Orders are not part of the Rules. The Special Rapporteur also acknowledges the response of the Government stating that "internet access is recognised as an important tool for assisting detainees to maintain links with friends, family and legal representatives, and to help them resolve their affairs in the United Kingdom in preparation for removal. However, access to the internet to enable detainees to maintain contacts in this way must be balanced against the need to maintain the safety and security of other detainees, removal centre staff and the public, as well as the security of the removal centre itself".

504. In this regard, the Special Rapporteur wishes to recall article 8 of Human Rights Council resolution 32/13 (A/HRC/32/13) which "calls upon all States to address security concerns on the Internet in accordance with their international human rights obligations to ensure protection of the freedom of expression, freedom of association, privacy and other human rights online, including through national democratic, transparent institutions, based on the rule of law, in a way that ensures freedom and security on the Internet so that it can continue to be a vibrant force that generates economic, social and cultural development". He maintains his previous concerns that the Order grants authority for deciding access to the internet as well as the monitoring authority to managers of detention centres, which increases the risk of loose interpretation and selective application.

Uzbekistan

505. JAL 22/12/2016 Case no. UZB 3/2016 State reply: 20/02/2017 (not yet translated). Alleged disruption of peaceful religious gatherings in private homes, severe censorship of any religious content and confiscation of religious materials.

Observations

Response to communication

968. The Special Rapporteur wishes to acknowledge receipt of the ...ie response of the ... Government dated 20 February 2017, and regrets that the translation ... is not yet available. ... concerning the issue of disruption of peaceful religious gatherings in p... rivate homes, severe ... censorship of any religious content and confiscation of religious mat... rials in Uzbekistan. ... the Special Rapporteur maintains his concerns expressed previou... sly. Notably, he is ... seriously concerned about the numerous reported police raids and con... fiscation of religious ... materials in private homes as well as the disruption of peaceful reli... gious meetings. The ... Special Rapporteur is equally concerned about the high number of alle... ged arrests and fines ... imposed on people for exercising their rights to freedom of religion or ... belief and freedom of peaceful assembly.

VI. Middle East and North Africa region

967. The Special Rapporteur sent 17 communications to countries in ... the Middle East and North Africa region. About half of his communications address allega... tions of violations of the right to peaceful assembly. The remaining communications ... concern prima facie violations of either solely the right to association or to both the righ... t to association and peaceful assembly. He also acknowledges that the response rate was ... 48.6 per cent for the region.

968. The Special Rapporteur expresses his dismay towards the co... ntinuous crackdown against civil society in the region. He condemns the growing trend ... restrictions placed on the exercise of the rights to freedom of religion or belief, expression, asso... ciation and peaceful assembly, which is indicative of a clear pattern of criminalizing dis... sent. The Rapporteur received a large amount of information regarding the targeting of hu... man rights defenders and political activists for peacefully carrying out their human rights a... ctivities as well as for exercising their rights to freedom of expression, freedom of associa... tion and freedom of peaceful assembly. He is particularly outraged at the ... travel bans, assets freezing, allegations of torture and ill-treatments by officials exerted a... gainst several human rights defenders, often used to obtain confessions during interrogations.

969. He observes an increasing trend of the use of repressive legislat... ion to crack down on dissent as he continues to witness States aiming to obstruct the ... free operations of associations by passing restrictive and complex laws that create confu... sion and fear among civil society.

970. The Special Rapporteur is extremely concerned about the broa... ad resort to security considerations, in particular the fight against terrorism, in order to ... categorically reject allegations of restriction of the rights to peaceful assembly and asso... ciation. He articulates that there should be a presumption in favour of holding peaceful assem... blies and associating freely and that security considerations should not be used as a justifi... cation for unduly strict rules or interpretations that void the rights to freedom of peaceful assembly and of association. The Special Rapporteur contends that no restrictions may be placed on the exercise of those rights other than those that are strictly necessary in a democratic society and proportionate to the interest to be protected.

971. The Special Rapporteur recalls that while the State may disagree with the opinions and criticisms expressed by persons embracing dissenting convictions or beliefs, it has a positive obligation to ensure an environment conducive to civil society in terms of enjoyment of the rights of peaceful assembly and association, so that it can exist, operate and express itself peacefully without any fear (A/HRC/20/27).

Algeria

972. [illegible] ... ons d'arrestation et de [illegible] allégations alléguant des buts individuels, dont deux défenseurs des droi... ts de l'homme. Selon

les informations reçues, plusieurs membres du Comité national de défense des droits des chômeurs, ainsi des militants locaux du groupe appelé Ma I rat, auraient été arrêtées à la suite de réunions pacifiques qui se seraient déroulées à Tamanrasset en décembre 2015.

513. JUA Case No. DZA 3/2016 State reply: 06/03/2017 Informations reçues concernant des allégations d'arrestation et de détention arbitraires survenues à la suite d'un rassemblement pacifique des membres des familles de disparus ainsi que de l'usage excessif de la force dans le cadre de cette manifestation.

514. JUA Case No. DZA 1/2017 State reply: 03/03/2017 Informations reçues concernant la détention arbitraire alléguée, la dégradation de l'état de santé, ainsi que les conditions de détention de M. Kamal Eddine Fekhar, un défenseur des droits de l'homme algérien.

Observations

Réponses aux communications

515. Le Rapporteur spécial remercie le Gouvernement pour les informations fournies en réponse à ses communications DZA 1/2016, DZA 3/2016 etDZA 1/2017. Environnement dans lequel les droits sont exercés

516. Le Rapporteur Spécial prend note des informations complémentaires fournies par le Gouvernement, notamment, que le 6 janvier 2016, M. Imad Ben Mansour aurait également été condamné pour « acte de rébellion », que M. Abdelali aurait été acquitté le 19 avril 2016, et que l'acquittement des autres accusés a fait l'objet d'un appel de la part du Procureur de la République (DZA 1/2016). Le Rapporteur spécial demeure préoccupé par le fait que, dans l'attente de la décision en appel, M. Dehmane Kerami, M. Bel Mansoor Yaseen, M. Bel Mansoor Imad, M. Bin dahlan Mohamad et M. Bin beriek Abdelhamid, se trouvent toujours en détention pour « attroupement non armé » et pour avoir « offensé des organismes publics ». L'arrestation, la détention et la condamnation de ces individus semblent illégitimes au regard des fait allégués. Il rappelle que le droit à la liberté de manifestation pacifique est protégé par l'article 21 du PIDCP ratifié par l'Algérie le 12 septembre 1989. Par là même, les Etats ont l'obligation négative de ne pas interférer avec le droit à la liberté de réunion pacifique et que l'interdiction d'une manifestation devrait être une mesure de dernier ressort.

517. Concernant la communication DZA 3/2016, le Rapporteur spécial prend note du fait que, contrairement aux allégations soulevées dans la communication, aucun individu n'aurait été arrêté le 29 septembre 2016. Il note également que des individus auraient été arrêtés le 20 octobre en raison du fait qu'ils ne détenaient pas de permis pour manifester et que des raisons d'ordre sécuritaire justifiaient ces arrestations. Le Rapporteur spécial rappelle que l'exercice du droit à la liberté d'expression ne devrait pas être soumis à une autorisation préalable de la part des autorités, mais, tout au plus, à une procédure de notification (A/HRC/20/27, para. 28).

518. Concernant l'usage excessif de la force envers les manifestants, il rappelle les recommandations du rapport conjoint A/HRC/31/66 du Rapporteur spécial sur le droit de réunion pacifique et la liberté d'association et de l'ancien Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, M. Christof Heyns, concernant la bonne gestion des rassemblements et aux recommandations formulées dans ce rapport. Il souligne notamment que « les Etats et les organes et agents chargés du maintien de l'ordre sont tenus, en vertu du droit international, de respecter et de protéger, sans discrimination, les droits de toutes les personnes qui participent à des réunions, ainsi que ceux des observateurs et des spectateurs. Le cadre juridique qui régit le recours à la force englobe les principes de légalité, de précaution, de nécessité, de proportionnalité et de responsabilité. » (para. 50). Il réitère ses sérieuses préoccupations quant à la répression systéma*ique d'événements similaires envers les familles et les sympathisants de la cause des disparus en Algérie.

519. Le Rapporteur spécial remercie les informations relatives à M. Kamal Eddine Fekhar (DZA 1/2017), notamment le fait qu'il a fait appel de sa condamnation le 22 février 2017. Le Rapporteur prend également note de la surveillance médicale dont il fait l'objet.

Néanmoins, le Rapporteur spécial réitère ses inquiétudes sur le fait que son arrestation, les lourdes accusations portées contre lui et le harcèlement judiciaire constant dont il fait l'objet, semble être étroitement lié à ses activités légitimes et pacifiques en faveur de la défense des droits de l'homme en Algérie et à l'exercice du droit à la liberté d'opinion et d'expression et du droit à la liberté d'association et de réunion pacifique.

520. Il regrette profondément le harcèlement judiciaire et les graves atteintes aux droits à la liberté d'expression, de réunion pacifique et d'association contre les défenseurs des droits de l'homme et autres activistes en Algérie. Il demande instamment aux autorités de s'abstenir d'entraver ces droits afin d'établir un environnement favorable pour l'exercice de ces droits, en conformité avec les obligations internationales contractées par l'Algérie et notamment les articles 19, 21 et 22 du PIDCP.

521. Le Rapporteur spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l'homme qui rappelle aux États leur obligation de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s'associer librement (article 22 du PIDCP), notamment à l'occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d'association soient conformes aux obligations qui leur incombent en vertu du droit international des droits de l'homme.

Visite de pays

522. Le Rapporteur spécial rappelle au Gouvernement ses demandes de visite formulées en 2011 et 2013. Il est convaincu qu'une visite du pays lui permettrait de mieux comprendre le contexte dans lequel le droit de réunion pacifique et d'association y est exercé et d'engager un dialogue constructif avec le Gouvernement sur ces questions. À la lumière de l'esprit des résolutions 15/21 et 24/5 du Conseil des droits de l'homme qui appelle les États à répondre favorablement aux demandes de visite, il espère recevoir une réponse positive du Gouvernement.

Bahrain

523. JUA Case no. BHR 3/2016 State reply 22/07/2016, 15/08/2016 Information received concerning Mr. Nabeel Rajab who has been repeatedly arrested and has served several prison sentences as a result of his human rights work and for leading a pro-democracy uprising in 2011.

524. JAL Case no. BHR 2/2016 State reply 10/08/2016, 15/08/2016, 20/10/2016 Information received concerning the alleged condemnation of Mr. Ali Salman to 9 years of imprisonment as well as the suspension of Al-Wefaq National Islamic Society.

525. JAL Case no. BHR 4/2016 State reply 15/08/2016, 09/09/2016 Information received concerning allegations of a travel ban imposed on human rights defenders, Mr. Hussain Salam Ahmed Radhi, Ms. Ebtesam Abdulhusain Ali-Alsaegh, Mr. Ebrahim Al-Demistani and Mr. Abdulnabi Al-Ekry in an act of reprisal for their cooperation with the United Nations Human Rights Council, and their human rights work through the exercise of their rights to freedom of expression and freedom of association.

526. JUA Case no. BHR 5/2016 State reply 9/09/2016 Information received concerning systematic persecution and repression of the Shias in Bahrain through undue restrictions to their rights to freedom of religion or belief, freedom of expression and peaceful assembly, including: dissolution of Al-Wefaq National Islamic Society, shutting down of faith based organizations, restriction on the practice of Khums, harassment of Shia clerics, restrictions on Friday Prayers and peaceful assembly, denaturalization of Ayatollah Sheikh Isa Qassim and other Shias, discriminatory treatment of Dr. Abduljalil Al-Singace in prison and the travel ban imposed on Sheikh Maytham Al-Salman.

527. JAL Case no. BHR 7/2016 State reply: 27/01/2017: Information received concerning allegations of a travel ban imposed on human rights defenders Mr. Mohammed Jawad, Ms. Nedal Al-Salman, Mr. Hussain Salam Ahmed Radhi, Mr. Mohammed Al-Tajer

and Ms. Enas Oun in an act of reprisal for their cooperation with the United Nations, and their human rights work through the exercise of their rights to freedom of expression and of association.

528. JUA Case no. BHR 2/2017 State reply 19/04/2017 Information received concerning the alleged arbitrary arrest and detention of six individuals, including one individual with an intellectual disability and two minors, for exercising their rights to freedom of peaceful assembly and freedom of expression.

Observations

Responses to communications

529. The Special Rapporteur thanks the Government of Bahrain for its replies to his communications sent during this reporting period.

Environment in which these rights are exercised

530. The special Rapporteur reiterates his concern regarding the suspension (BHR 2/2016) and subsequent dissolution (BHR 5/2016) of Al-Wefaq National Islamic Society and considers that the reasons given by the authorities to justify these measures, in particular 2, 3, 4, 6, 7, 8 and 10, are not in compliance with articles 19 and 22 of the ICCPR. He stresses that activities aimed at "encouraging mass demonstrations" and criticizing the regime are not legitimate grounds to dissolve an association. He reminds the Government that the action to suspend or dissolve an association is one of the most severe restrictions on freedom of association. Therefore, any such decision to suspend or dissolve an association should comply with international human rights law and standards. Namely it should be guided by the principles of proportionality and necessity (A/HRC/20/27, paragraph 75).

531. Regarding the Government's reply to communication BHR 3/2016, the Special Rapporteur notes that Nabeel Rajab remains in custody, for charges related to "compromising the dignity and prestige of the State" after having declined to provide further information on 14 June. After having received a complaint lodged on 30 June 2016, where Mr. Rajab complained about his conditions of detention, the Office of the Public Prosecutor inspected his place of detention and found his complaint to be unfounded. Moreover, according to the authorities, Mr. Rajab benefited from adequate health care. Similarly, the Rapporteur thanks the Government for the information provided but he remains concerned about the conviction of Mr. Ali Salman (BHR 2/2016) for charges that seem to be directly linked to the exercise of his rights to freedom of expression and association (in particular related to his criticism of the regime).

532. Regarding communication BHR 5/2016, he takes note of the strategy adopted by the Government to "put an end to deviant ideology which gives rise to extremism and bigotry" by sentencing Shia clerics whose sermons are considered extremist. Nevertheless, he remains concerned about information that Shia clerics continue to be targeted for expressing their religious views. He also takes note of the Government's answer regarding the withdrawal of Sheikh Isa Qassim's nationality, alleging that Sheikh Qassim has established organizations "subservient to an external religio-political authority" and has played a leading role in the creation of an "extremist sectarian environment in which he attempted to divide society on the basis of confessional affiliation and compliance with his orders", that he "violated the concept of the rule of law, particularly by influencing elections through the delivery of legal opinions on whether voters should participate in, or boycott, elections", that he "he even mobilized many groups to lobby against the promulgation of the second (Jaafari) part of the Family Law Code". However, the Special Rapporteur is concerned that certain of these reasons justifying Sheikh Qassim's conviction seem to be linked to his legitimate exercise of his right to freedom of expression, freedom of peaceful assembly and freedom of association. He also regrets not having received information regarding Mr. Abduljalil Al-Singace.

533. Similarly, he remains alarmed at the allegations of travel bans imposed on numerous human rights defenders (BHR 4/2016 and BHR 7/2016). He notes the authorization of the Prosecutor's Office to impose a travel ban on individuals based on the provisions of article 159 of the Code of Criminal Procedure, if such action is considered to be in the interest of an investigation.

534. The Special Rapporteur expresses his concern at the targeting of human rights defenders and political activists for peacefully carrying out their human rights activities as well as for legitimately exercising their rights to freedom of expression and freedom of association. The right to freedom of association obliges States to take positive measures to establish and maintain an enabling environment. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to any threats, acts of intimidation or violence, including summary or arbitrary executions, enforced or involuntary disappearances, arbitrary arrest or detention, torture or cruel, inhuman or degrading treatment or punishment, a media smear campaign, travel ban or arbitrary dismissal, notably for unionists (A/HRC/20/27, paragraph 63).

535. The Special Rapporteur takes note of the Government's answer received on 19 April 2017 regarding the alleged arbitrary arrest and detention of six individuals, including one individual with an intellectual disability and two minors and of the fact that, according to police and medical reports, the individuals were not subjected to violence (BHR 2/2017). However, the Rapporteur reminds Bahrain that arresting protesters for taking part in peaceful assembly is in violation of article 21 of the ICCPR. The Special Rapporteur expresses his concern at what appears to be a growing criminalization of civil society activists for their role in peaceful protests and a tendency to repress, including through excessive use of force, the attempts of civil society to collectively voice its grievances. He recalls that assemblies are also an instrument through which other social, economic, political, civil and cultural rights can be expressed, meaning they play a critical role in protecting and promoting a broad range of human rights. They can be instrumental in amplifying the voices of people who are marginalized or who present an alternative narrative to established political and economic interests. Assemblies present ways to engage not only with the State, but also with others who wield power in society, including corporations, religious, educational and cultural institutions, and with public opinion in general (A/HRC/31/66, par. 6).

Country visit

536. The Special Rapporteur reminds the Government of Bahrain of his willingness to undertake a country visit to Bahrain, as indicated by his last letters of 2 September 2011 and 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity.

Egypt

537. JAL Case no. EGY 4/2016 State reply: None Alleged targeting of leading human rights defenders and organizations in Egypt through interrogations, asset freezes, travel bans and closure orders.

538. JUA Case no. EGY 5/2016 State reply: 28/12/2016 Alleged arbitrary and unfair disciplinary proceedings against at least 71 judges, reportedly for exercising their rights to freedom of expression, opinion, peaceful assembly and association.

539. JUA Case no. EGY 6/2016 State reply: None Alleged disproportionate restrictions on the rights to freedom of peaceful assembly and of expression, as well as the excessive use of force, and the continued targeting of civil society, in particular of human rights defenders and organizations.

540. JAL Case no. EGY 7/2016 State reply:21/04/2017 I:formation received concerning widespread allegations of arbitrary arrests and detentions including incommunicado

detentions, lack of access to legal counsel and violations of fair trial and due process of law guarantees, imposition of death penalty following unfair trials, torture and ill-treatment and lack of access to adequate health care during detention, coerced extraction of confessions, and targeting of human rights defenders and civil society organizations (including travel bans and freezing of assets), since 2011.

541. JAL Case no. EGY 8/2016 State reply: 12/08/2017 Information received concerning allegations of travel ban against a woman human rights defender, Ms. Mozn Hassan.

542. JAL Case no. EGY 10/2016 State reply: None Information received concerning the alleged arbitrary detention of Mr. Ahmed Abdallah Abou Elela Abdallah, a human rights defender, co-founder and board director of the Egyptian Commission for Rights and Freedoms (ECRF), a human rights organization based in Cairo since 2013.

543. JAL Case no. EGY 11/2016 State reply: 04/04/2017 Information received on the re-opening of the so-called "foreign funding case", an investigation into the funding of local and foreign groups, and restrictions imposed on the activities of five human rights defenders and three human rights non-governmental organizations, through the application of the NGO law and freezing of their assets, in ways that are incompatible with Egypt's international human rights obligations.

544. JUA Case no. EGY 14/2016 State reply: None Information received concerning a new draft law on NGOs adopted by the Egyptian Parliament on 15 November 2016, which, should it enter into force, may have a dramatic impact on civil society organizations in Egypt.

545. JOL Case no. EGY 16/2016 State reply: 03/02/2017 Information received concerning the situation of Ms. Azza Soliman, in relation to her recent arrest and the continuous harassment she has been suffering.

546. JAL Case no. EGY 1/2017 State reply: 04/04/2017 Information received concerning the close down by Egyptian security forces of three libraries established by Mr. Gamal Eid, a human rights defender and director of the Arab Network for Human Rights Information, as well as the imposition of a travel ban and asset freeze against Mr. Eid in connection with case 173/2011.

Observations

Responses to communications

547. The Special Rapporteur thanks the Government of Egypt for its replies and urges it to respond to the grave allegations contained in communications EGY 4/2016, EGY 6/2016, EGY 10/2016 and EGY 14/2016 with the briefest possible delay. He recalls that he considers responses to his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

548. The Special Rapporteur reiterates his utmost concern at the past year's serious escalation of the crackdown on independent civil society, including human rights defenders, lawyers, trade unions, journalists, political opponents and protestors in Egypt. The Special Rapporteur received a large amount of information regarding interrogations, judicial harassment, torture, ill-treatment, arbitrary detention, unfair trials, asset freezes, travel bans and closure orders of civil society organizations in Egypt. He expresses particular concern that these NGOs appear to be targeted for peacefully carrying out their human rights activities as well as for legitimately exercising their rights to freedom of expression and freedom of association. He underlines that such attacks may be representative of intent by the authorities to intimidate and silence media, trade unions, organizations and human rights defenders operating in Egypt.

549. In particular, he expresses concern regarding the targeting by authorities of several civil society organizations mentioned in is communications over the period, including

Nazra for Feminist Studies, Cairo Institute for Human Rights Studies, the "United Group-Attorneys-at-law, Legal Advisors", Arab Network for Human Rights Information, the Egyptian Initiative for Personal Rights – EIPR, Hisham Mubarak Law Center – HMLC and the Egyptian Center for the Right to Education - ECRE. He recalls that the suspension or dissolution of an association is one of the most severe types of restriction on the right to freedom of association (A/HRC/20/27, paragraph 75).

550. He thanks the Government for its reply concerning the concerns he raised in communication EGY 11/2016 regarding the re-opening of the "foreign funding case" as well as the restrictions imposed on the activities of five human rights defenders and three human rights non-governmental organizations, through the application of the NGO law and freezing of their assets. He notes the "private property" considerations, as well as the discretion granted to the Office of the Public Prosecutor to determine what constitutes "offences related to funds belonging to the State, public authorities and institutions, affiliated units or any other public legal entities". He also takes notes of the fact that these organizations and human rights defenders were under investigation for, among other reasons, receiving financial remittances from foreign bodies for engaging in activities conducive to instability in the country, the spread of anarchy, security upheavals and sedition among Egyptian communities with a view to undermining national security and obstructing the Egyptian authorities. The Rapporteur reiterates his concerns regarding the foreign funding case, which he considers to be in complete violation of human rights law, as he has already asserted in a press release issued on 11 October 2016 and numerous communications sent to Egypt. The Special Rapporteur recalls that any association "should have the right to seek and secure funding and resource from domestic, foreign, and international entities" (A/HRC/20/27 para. 68). The Special Rapporteur reminds the State that it has an obligation not to obstruct the exercise of the right to freedom of association. This responsibility includes guaranteeing that both registered and unregistered associations can seek and secure funding and resources without discrimination (A/HRC/20/27, paragraphs 64 and 68). He recalls that governments must allow access by NGOs to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as Governments (A/HRC/20/27, para. 69). Similarly, he expresses concerns at the targeting of human rights defenders, including women human rights defenders, including Ms. Mozn Hassan, Ms. Azza Soliman and Mr. Eid. He takes note of the Government's reply condemning the defenders for their "illegal activities" under the "foreign funding case" (EGY 8/2016, EGY 16/2016 and EGY 1/2017).

551. The approval by the Egyptian Parliament of the "NGO Law" adopted in November 2016 is particularly worrying and is part of the wider crackdown imposed on civil society in Egypt. The law would eliminate independent human rights work and put an end to the very limited space for dissent that remains in the country (PR of 23 November 2016). He urges the President to refrain from signing the decree that would allow the Law to come into full effect and urges the Government to ensure the compliance of the NGO draft law with international law standards, following a transparent consultation process with civil society organizations.

552. He takes note of the Government's answer in communication EGY 5/2016 but remains concerned at what appear to be arbitrary and unfair disciplinary proceedings against judges in two cases referred to as the "July 2013 Statement Case" and the "Judges for Egypt Case". He is particularly worried at the decision declaring 32 judges "unfit to serve" and forcing them to retire as a consequence of being found guilty of participating in a statement on political matters unrelated to the judiciary. The Rapporteur takes note of the Government's assertion that the statement was read out before crowds of demonstrators from the Muslim Brotherhood in the Rabi'a al-Adawiyya district of Cairo, accusing the Egyptian Army of acting against the legitimate authority and also containing other "false and mendacious allegations which should not be made by judges since they imply the latter's affiliation and partiality to the Muslim Brotherhood group and thereby flagrantly detract from their neutrality and their judicial status". He similarly takes note of the fact that, according to the authorities, the proceeding was fair and carried out by an impartial organ. Nevertheless, the Rapporteur remains concerned at the massive dismissal of judges for exercising their rights to freedom of expression, assembly and association which appears to form part of a widespread crackdown carried out by the Egyptian authorities

against members of the judiciary that are perceived o be critical of issues of governance in the country and seems to be indicative of an additional measure to curtail fundamental human rights in Egypt.

553. The Special Rapporteur regrets not having received an answer to his communication EGY 6/2016 concerning the restriction imposed on the exercise of the rights to freedom of peaceful assembly and freedom of expression at the protests in April 2015, including allegedly threatening statements and intimidation, the excessive use of force, check points, arbitrary arrests, detention and criminal prosecution. He also urges authorities to provide information on protestors and human rights defenders mentioned in the communication. The Rapporteur reminds the Government that, in order to comply with international human rights standards, security considerations should not be used as a justification for the adoption of stricter rules that annul the rights to freedom of peaceful assembly and of association (A/HRC/26/29 paragraph 33).

554. The Special Rapporteur reiterates his concern regarding the broader impact of the above allegations, which may have a "chilling effect" on civil society, particularly on individuals exercising their rights to freedom of peaceful assembly, association and expression, such as protestors and human rights defenders and civil society organizations, and warns against environments that instill fear throughout society, which in turn can lead to self-censorship.

555. While the State does not have to agree with the opinions and criticism expressed by persons espousing minority or dissenting views, it has a positive obligation to ensure the existence of an enabling environment for civil society, including the enjoyment of the right of association, so that it may exist, operate and express itself freely and without fear (A/HRC/20/27, paragraph 63).

556. He calls on the Government of Egypt to halt the ongoing harassment of dissenting voices. More generally, he urges the State to take all necessary steps to secure the rights to freedom of peaceful assembly and of association as per articles 21 and 22 of the International Covenant on Civil and Political Rights ratified by Egypt on 14 January 1982.

Country visit

557. The Special Rapporteur reminds the Government of Egypt of his willingness to undertake a country visit as indicated in his letters sent in 2011 and 2013. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity.

Iraq

558. JUA Case no. IRQ 1/2016 State reply: None. Allegations of acts of intimidation and reprisals, in the form of arbitrary arrest and ill-treatment, against two human rights defenders for their work and cooperation with the United Nations in the field of human rights.

Observations

Responses to communications

559. The Special Rapporteur regrets not having received a response to his communications. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

560. The Special Rapporteur reiterates his concern at the allegations of arrest and ill-treatment of Mr. Amara and Mr. Al Tamimi in retaliation for their legitimate human rights

work at the Al Wissam Humanitarian Assembly and as a reprisal for their cooperation with the Unites Nations. He regrets that similar allegations have been raised regarding other human rights defenders working for the Al Wissam Humanitarian Assembly. He fears that these allegations might have a chilling effect on the activities of other human rights defenders, particularly if the authorities do not take action to convict the authors of these violations.

561. He reminds the Government that the right to freedom of association, as protected by article 22 of the ICCPR, obliges the State to take positive measures to establish and maintain an enabling environment so that human rights defenders can operate freely without fear of being subjected to violence. This implies the duty to protect human rights defenders, and prosecute the perpetrators of violence committed against human rights defenders.

Israel

562. JUA Case no. ISR 1/2016 State reply: None Allegations of undue restrictions of the rights to freedom of association and freedom of expression contained in draft laws.

563. JAL Case no. ISR 6/2016 State reply: None Alleged threatening and intimidating statements made against the members of a human rights organization for the exercise of their rights to freedom of association and freedom of expression, as well as their human rights work.

564. JAL Case no. ISR 8/2016 State reply: None Information received concerning allegations of threats, cyber-attacks and smear campaign against human rights organisation Al-Haq and its members and General Director, Mr. Shawan Jabarin, as well as arbitrary arrest and detention of a human rights defender, Mr. Abdallah Abu Rahma.

565. JAL Case no. ISR 9/2016 State reply: None Information received regarding allegations of arbitrary arrest and detention of Mr. Issa Amro and Mr. Farid Al-Trash in relation to the exercise of their rights to freedom of expression and freedom of association.

566. JAL Case no. ISR 2/2017 State reply: None Information received concerning allegations of the arbitrary arrest, detention and criminal prosecution before military court of three human rights defenders, Mr. Abdallah Abu Rahma, Ms. Lema Nazeeh, and Mr. Mohammed Khatib.

Observations

Responses to communications

567. The Special Rapporteur regrets not having received a response to his communications. He considers responses to his communications to be an important part of the cooperation of Governments with his mandate, in line with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

568. The Special Rapporteur expresses continued worry at the threats, intimidation and targeting of human rights organizations and human rights defenders. Notably, he deplores the statement made by Israeli officials indicating that Israel should employ "targeted civil eliminations" against members of the human rights network, Palestinian Rights, Boycott, Divestment and Sanctions (BDS), and that it is considering revoking the citizenship of some of BDS' members, including Mr. Omar Barghouti (ISR 6/2016). The Special Rapporteur is equally concerned for the physical and psychological safety of Al-Haq, its staff members and Mr. Jabarin, and about about their alleged harassment and intimidation, which appear to be directly related to the exercise of their right to freedom of expression, association and assembly, through their legitimate human rights work in the promotion and protection of human rights in the Occupied Palestinian Territories (ISR 8/2016).

569. Particularly worrying are the arrests and arbitrary detentions of Mr. Farid Al-Trash and Mr. Issa Amro (ISR 9/2016), as well as Mr. Abdallah Abu Rahma, Ms. Lema Nazeeh, and Mr. Mohammed Khatib (ISR 2/2017) which appear to be directly connected to their participation in peaceful protests and for their human rights work with civil society organizations. The Special Rapporteur would further like to draw attention to the situation of Ms. Lema Nazeeh and Mr. Abdallah Abu Rahma, who may have received treatment amounting to torture and other cruel, inhuman and degrading treatment while in detention. The Special Rapporteur expresses severe concern about the continued excessive use of force during demonstrations and the regular use of live fire to control protestors. He recalls that the use of force by security forces should be submitted to a proportionality and necessity test and that no one should be submitted to indiscriminate use of force. He invites Israel to implement recommendations contained in his joint report with Mr. Christof Heyns about the proper management of assemblies. He recalls that the State has the duty to convict those responsible for the violation of the right to freedom of peaceful assembly and association and urges the authorities to conduct investigations concerning the aforementioned cases.

570. The Special Rapporteur was informed that the NGO "Transparency Law" passed in July. As raised in communication ISR 1/2016, the law imposes burdensome reporting requirements on nongovernmental organizations (NGOs) receiving most of their funding from foreign governmental entities, which would have a highly detrimental effect on anti-occupation political associations and associations of Arab citizens of Israel. The Special Rapporteur calls on the Government of Israel to repeal restrictive provisions established by the law.

571. The Special Rapporteur reminds the State of its obligation to ensure a conducive environment for the free exercise of the rights of peaceful assembly and association, rights enshrined in the International Covenant on Civil and Political Rights, acceded to by the State on 3 October 1991. He also restates that, according to this same Covenant, only a very limited number of restrictions to these rights may apply, which should be prescribed by law and necessary in a democratic society for responding to a pressing social need for the interference.

Kuwait

572. JUA Case no. KWT 2/2016 State reply: 13/06/2016, 17/06/2016, 20/06/2016, 11/08/2016, 03/08/2016 Information received concerning the sentencing and deportation order against human rights defender Mr. Abdulhakim al-Fadhli, as well as allegations of torture during interrogation.

Observations

Responses to communications

573. The Special Rapporteur is grateful for the response of the Government of Kuwait to his communication. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

574. The Special Rapporteur duly takes note of the authorities' reply stating that Mr. Abdulhakim al-Fadhli's activities are not related to the defense of human rights, that he enjoyed full legal guarantees in the course of the judicial proceedings against him, and that he enjoyed good conditions of detention. He acknowledges the different provisions and measures adopted by Kuwait to ensure the promotion and protection of human rights defenders in the country. He welcomes the release of Mr. Abdulhakim al-Fadhli on 2 August 2016. Nevertheless, the Rapporteur remains concerned at the judicial harassment against Mr. al-Fadhli for charges linked to "incitation to participate in unlawful assemblies", "insulting a public official", "incitement to violence and violation of public

order and safety" and his conviction to a prison term of one year. He urges the authorities to inform the Rapporteur about the result of the appeal of this decision lodged by Mr. al-Fadhli.

575. Regarding the allegations of excessive use of force justified by the "need to maintain security and order", the Special Rapporteur warns against the practice of resorting to security considerations to adopt stricter measures that annul fundamental rights and freedoms. He articulates that there should be a presumption in favour of holding peaceful assemblies and associating freely. In his view, excessive restrictions, mass surveillance and shows of force attest that authorities in some Member States often presume the opposite, which has a chilling effect on civil society activism. He stresses that security considerations should not be used as a justification for unduly strict rules or interpretations that void the rights to freedom of peaceful assembly and of association.

576. He recalls Human Rights Council resolution 24/5, which "[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including [...] persons espousing minority or dissenting views or beliefs [and] human rights defenders [...], seeking to exercise or to promote these rights and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

Morocco

577. JAL Case no. MAR 1/2016 State reply : None Allégations d'actes de représailles contre une femme défenseur des droits de l'homme liés à sa coopération avec l'Organisation des Nations Unies (ONU) et ses mécanismes dans le domaine des droits de l'homme.

578. JAL Case no. MAR 3/2016 State reply : None Informations reçues concernant les mesures restreignant les activités d'Attac Maroc, l'Association marocaine des droits de l'homme (AMDH) et le Réseau Amazigh pour la Citoyenneté.

579. JAL Case no. MAR 5/2016 State reply : None Informations reçues concernant les allégations d'arrestation, de détention arbitraire et de mauvais traitements subis par les deux jeunes défenseurs des droits de l'homme sahraouis de l' Équipe Média (EM), M. Amidan Said et M. Brahim Laajail, par les forces de l'ordre marocaines à Guelmim, au sud du pays.

Observations

Réponses aux communications

580. Le Rapporteur spécial regrette ne pas avoir reçu de réponse à ses communications. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des Gouvernements avec son mandat, selon les résolutions du Conseil des Droits de l'Homme 24/5 (2013), 21/16 (2012) and 15/21 (2010), et invite de ce fait les autorités à fournir aussi tôt que possible des réponses détaillées aux préoccupations soulevées dans ses communications.

Environnement dans lequel les droits sont exercés

581. Le Rapporteur s'inquiète d'avoir reçu des informations préoccupantes concernant la restriction du droit à la liberté d'association et de réunion pacifique au Maroc. Au cours de l'année 2016, plusieurs réunions de groupes de défense des droits humains au Maroc n'ont pu être organisées. Dans la plupart des cas, les lieux prévus pour les réunions ont été rendus indisponibles le jour prévu de l'événement. En juillet 2016, les autorités marocaines auraient par exemple interdit un séminaire organisé par Attac Maroc, l'Association marocaine des droits humains et le Réseau Amazigh pour la Citoyenneté, sur le thème de l'environnement et le droit à la terre au Maroc, qui devait avoir lieu au Conseil municipal de Marrakech (MAR 3/2016).

582. Le Rapporteur s'inquiète des mesures de représailles contre Mme Ghalia Djimi, femme défenseure des droits de l'homme et Vice-Présidente de l'Association Sahraouie Des Victimes des Violations Graves des Droits de l'Homme. Mme Ghalia Djimi se serait en effet vu refuser le droit de participer à la 31ème session du Conseil des droits de l'homme (MAR 1/2016). Le Rapporteur exprime son inquiétude quant à la recrudescence des représailles contre les défenseurs des droits de l'homme pour leur coopération avec les mécanismes de protection des droits de l'homme de l'ONU. A ce titre, il rappelle la Résolution 12/2 (A/HRC/RES/12/2), ainsi que Résolution 24/24 (A/HRC/24/24) du Conseil des Droits de l'Homme, qui, entre autres, « condamne tous les actes d'intimidation ou de représailles de la part de gouvernements et d'acteurs non étatiques contre des particuliers et des groupes qui cherchent à coopérer ou ont coopéré avec l'Organisation des Nations Unies, ses représentants et ses mécanismes dans le domaine des droits de l'homme » et « demande aux Etats de protéger comme il convient des actes d'intimidation ou de représailles les particuliers et les membres de groupes qui cherchent à coopérer ou ont coopéré avec l'Organisation des Nations Unies, ses représentants et ses mécanismes dans le domaine des droits de l'homme (…) ».

583. Enfin, le Rapporteur réitère ses inquiétudes concernant la criminalisation des activistes et journalistes sahraouis et condamne par là même les agressions verbales et physiques et les mauvais traitements subis par M. Amidan Said et M. Brahim Laajail, deux jeunes défenseurs des droits de l'homme sahraouis, par les forces de l'ordre marocaines qui, en toute apparence, visent à intimider et entraver leur action en faveur des droits de l'homme, notamment ceux du peuple sahraoui (MAR 5/2016).

584. Il appelle les autorités à prendre toutes les mesures adéquates pour assurer que les défenseurs des droits de l'homme puissent exercer leurs droits à la liberté d'association (art. 22 du PIDCP) et de réunion pacifique (art. 21 du PIDCP) dans un environnement favorable leur permettant de mener à bien leurs activités sans risque d'être exposés à des menaces, représailles, intimidations ou actes de harcèlement.

Visite de pays

585. Le Rapporteur spécial rappelle au Gouvernement du Maroc ses demandes de visite formulées en 2011 et 2013. Il est convaincu qu'une visite du pays lui permettrait de mieux comprendre le contexte dans lequel le droit de réunion pacifique et d'association y est exercé et d engager un dialogue constructif avec le Gouvernement sur ces questions. A la lumière de l'esprit des résolutions 15/21 et 24/5 du Conseil des droits de l'homme qui appelle les Etats à répondre favorablement aux demandes de visite, il espère recevoir une réponse positive du Gouvernement.

Oman

586. JUA Case no. OMN 1/2016 reply : Some information received concerning the alleged arbitrary arrest and detention of Mr. Said Ali Said Jadad for his human rights activities and as an alleged continued act of reprisal for his cooperation with the Special Rapporteur on the right to freedom of peaceful assembly and of association during his country visit to Oman, from 8 to 13 September 2014, as well as for his cooperation with international organizations.

Observations

Responses to communications

587. The Special Rapporteur regrets that, to date, no reply has been received to his communication. He recalls that responses to his communications are an important part of the cooperation of the Government of Oman with his mandate, and urges the authorities to comply with Human Rights Council resolutions on the rights to freedom of peaceful assembly and of association. These resolutions, including resolution 24/5 (2013), call on States to cooperate fully with and assist him in the performance of his mandate and to respond promptly to his communications.

Environment in which these rights are exercised

588. The Special Rapporteur regrets having received information regarding the arbitrary deprivation of liberty of Mr. Jadad, including incommunicado detention and the lack of access to adequate medical treatment while in detention. He fears these measures may constitute continued acts of intimidation and reprisal for Mr. Jadad's cooperation with the United Nations, its mechanisms and representatives in the field of human rights, namely with his mandate, as well as with international organizations.

589. He reminds the Government of its obligation to respect and protect fundamental human rights, including the right of all individuals to freely associate. He underlines that this right involves the positive obligation to establish an enabling environment for members of associations to perform their activities without fear from threats or acts of intimidation and harassment of any sort. He recalls resolution 24/24 calling on States to refrain from and ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its mechanisms and representatives in the field of human rights (A/HRC/29/27, para. 63).

590. He calls on the Government to conduct independent and thorough investigations into allegations of human rights violations, to hold perpetrators accountable and to provide the victims with full redress, without further delays.

Country visit

591. The Special Rapporteur thanks the Government for inviting him to undertake an official country visit to the country from 8 to 13 September 2016. He commends Oman for being the first Arab country to agree to an official country visit of his mandate. He recalls the constructive talks during the mission with members of the executive, legislative and judicial branches and reiterates that he stands ready to provide any support the authorities may require to implement the recommendations he put forward in his country visit report (A/HRC/29/25/Add.1).

Saudi Arabia

592. JUA Case no. SAU 4/2016 State reply 24/11/2016 Information received concerning the arrest, the detention and the severe sentences, including corporal punishment, of members of the Saudi Civil and Political Rights Association (ACPRA) and other human rights defenders, as well as allegations of prolonged solitary confinement and incommunicado detention.

593. JUA Case no. SAU 8/2016 State reply 13/02/2017 Information received concerning the arbitrary investigations and prosecutions of three individuals, Mr. Mohammad Abdullah Al-Otaibi, Mr. Abdullah Moudhi Saad Al-Atawi and Mr. Issa Al-Hamid, for activities aimed at defending and promoting human rights, including for cooperating with international organizations promoting human rights, in the context of the exercise of their rights to freedom of association and freedom of expression.

Observations

Responses to communications

594. The Special Rapporteur expresses his thanks to the Government of Saudi Arabia for its replies to the communications sent during the period under consideration. In this connection, he is grateful for the cooperation extended to the mandate, in compliance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

595. The Special Rapporteur takes note of the authorities' reply regarding Mr. al-Otaibi and Mr. al-Atawi's case (SAU 8/2016). He notes that the charges brought against them fall under the jurisdiction of the Specialized Criminal Court and the evidence suggesting that

their actions amount to "terrorist acts" and that, according to the authorities, all guarantees of fair trial were respected. He reiterates his concerns regarding the Specialized Criminal Court (SAU: K2016) which is reportedly increasingly being utilized to prosecute the actions of human rights defenders and civil society actors for their peaceful and legitimate activities. Notably, the Court often does not respect due process as hearings are held in prison cells, judgments are not publicized, defendants are not permitted to access the prosecution's file in order to prepare their defence, and the judges have wide discretion to determine what actions qualify as "terrorist acts".

596. Similarly worrying is the judicial harassment against members of the banned organization Saudi Civil and Political Rights Association (ACPRA). In 2016, nearly all ACPRA members were either detained and/or or facing judicial proceedings (SAU: 4/2016 and SAU: 8/2016). The Special Rapporteur takes note of the information provided by the Government regarding members of ACPRA Mr. Abdulaziz al-Shubaily, Mr. Issa al-Hamid, Mr. Abdulrahman al-Hamid, Mr. Abdulkareem al-Khodr, Mr. Omar al-Said, Mr. Mohammed al-Bajadi, Nizzmee al-Rashodi, Abdullah al-Hamid, Mr. Mohammed al-Qahtani, Mr. Saleh al-Ashwan, Fowzan al-Harbi, Mr. Waleed Abu al-Khair and Mr. Issa al-Nukheifi. He acknowledges that most of the charges brough against them are related to their membership in "unlicensed organizations", offences punishable under the Cybercrime Act, disrupting order and security, promoting anarchy and/or providing support to terrorist groups.

597. The Special Rapporteur reiterates that the right to freedom of association equally protects associations that are not registered. Individuals involved in unregistered associations should indeed be free to carry out any activities, including the right to hold and participate in peaceful assemblies, and should not be subject to criminal sanctions (A/HRC/20/27, para 56).

598. He notes that the struggle against terrorism and other security considerations cannot be used as a rationale to nullify the rights to freedom of peaceful assembly and of association. He advocates that when absolutely necessary, limitation measures, as provided for in the International Covenant on Civil and Political Rights, are adequate to combat terrorism or handle other security considerations.

599. The Special Rapporteur wishes to reiterate his concern that the conviction of the abovementioned human rights defenders is purely for their peaceful and legitimate work advocating for the promotion of human rights in Saudi Arabia, as well as the exercise of their rights to freedoms of peaceful assembly, opinion and expression. He warns against the practice of resorting to security considerations, notably terrorism, to adopt stricter measures that unveil fundamental rights and freedoms.

600. The Special Rapporteur reiterates his concerns regarding the continued repression of activists and dissidents in 2016. In particular, he stresses that, since 2014 and the adoption of the new counter-terrorist law, the Saudi Arabian authorities have increasingly been targeting civil society activists and human rights defenders through legal proceedings and other administrative measures such as the imposition of travel bans as a means to harass, intimidate and impede their work in the defense of human rights. Most of Saudi Arabia's prominent and independent human rights defenders have reportedly been imprisoned or scared into silence, have fled the country, have been subjected to travel bans and have been intimidated and harassed by the security forces. The Special Rapporteur notes that alleged systematic repression of human rights defenders and activists is reportedly part of a larger campaign by the authorities to silence all forms of criticism.

601. He stresses that it is the obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline (A/HRC/RES/24/5, operational paragraph 2). Moreover, he reaffirms that the rights to freedom of peaceful assembly and of association are necessary elements for the possible emergence and sustainability of effective democratic systems. In this regard, States should therefore make every effort to facilitate these rights.

Country visit

602. The Special Rapporteur reminds the Government of his willingness to undertake a country visit to Saudi Arabia, as indicated by his last letter on 30 October 2013. He trusts that such a visit would allow him to examine first-hand issues relating to his mandate, identify good practices and formulate pertinent recommendations to relevant stakeholders. He looks forward to receiving a positive reply at the earliest possible opportunity. He reiterates that Human Rights Council resolution 15/21, which established his mandate, and 24/5, which renewed it for an additional period of three years, both urge the States to consider favorably his requests for visits.

State of Palestine

603. [M. Case no. PAL 1/2016 State reply: Some information received concerning alleged threats, cyber-attacks and a smear campaign against human rights organizations Al-Haq and its members and General Director, Mr. Shawan Jabarin.

Observations

Responses to communications

604. The Special Rapporteur regrets that no response was received to date relating to the allegations contained in his communication. He considers responses to the questions raised in his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012) and 15/21 (2010).

Environment in which these rights are exercised

605. The Special Rapporteur conveys again his concern regarding the alleged smear campaign against Al-Haq, as well as the alleged harassment and intimidation against Al-Haq, its staff members and Mr. Jabarin, as well as their physical and psychological security and at the fact that these attacks appear to be directly related to the exercise of their right to freedom of expression, association and assembly, through their legitimate human rights work in the promotion and protection of human rights in the Occupied Palestinian Territories.

606. The right to freedom of association obliges States to take positive measures to establish and maintain an enabling environment. It is crucial that individuals exercising this right, notably including unionists, are able to operate freely without fear that they may be subjected to any threats, acts of intimidation or violence, including unlawful or arbitrary detention, torture or executions, enforced or involuntary disappearances, arbitrary arrest or detention, smear campaign, travel ban or arbitrary dismissal (A/HRC/20/27).

Tunisia

607. [M. Case no. TUN 1/2016 State reply : Some informations reçues concernant des entraves dans la procédure de l'enregistrement de l'organisation Shams.

608. [M. Case no. TUN 1/2016 State reply : Some informations reçues concernant l'arrestation arbitraire et les menaces contre les défenseurs des droits de l'homme, M. Ahmed Ben Amor, l'agression physique de M. Bellalid Belhedi, ainsi que le harcèlement continu contre eux, qui semble être uniquement motivé par leur travail en faveur des droits de l'Homme en Tunisie.

Observations

Réponses aux communications

609. Le Rapporteur spécial regrette qu'au moment de la finalisation du présent rapport, aucune réponse n'ait été reçue concernant les communications envoyées pendant la période couverte par le présent rapport. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat, conformément aux résolutions 24/5 (2013), 21/16 (2012) et 15/21 (2010) du Conseil des Droits de l'Homme. Il encourage le Gouvernement à répondre aux communications envoyées.

Environnement dans lequel les droits sont exercés

610. Le Rapporteur Spécial se dit particulièrement préoccupé par la situation des droits à la liberté d'expression, d'association et de réunion pacifique des personnes LGBT ainsi que des activistes qui œuvrent à la promotion de leurs droits en Tunisie. Les informations qu'il a reçues au cours de la période semblent indiquer de sérieuses restrictions à l'exercice de ces droits pour l'organisation Shams.

611. Il rappelle que l'orientation sexuelle et l'identité de genre sont des motifs de discrimination prohibés par le droit international. En particulier, les résolutions 32/2, 17/19 et 27/32 du Conseil des droits de l'homme, expriment une vive préoccupation pour les actes de violence et de discrimination commis contre des individus en raison de leur orientation sexuelle et de leur identité de genre et les recommandations des organes de droit de l'homme de l'ONU et des titulaires de mandat de procédures spéciales qui interdisent notamment la discrimination fondée sur l'orientation sexuelle et l'identité de genre.

612. Il attire l'attention des autorités tunisiennes sur le fait que le Haut-Commissaire aux droits de l'Homme recommande aux États, entre autres, de supprimer les infractions liées aux relations homosexuelles, d'appuyer les campagnes de sensibilisation visant à combattre l'homophobie et la transphobie, de veiller que les agents de l'État impliqués dans des actes de violence ou complices de tels actes aient à en répondre, de procéder sans délai à des enquêtes approfondies sur les violences motivées par la haine subies par les personnes LGBT et de veiller à ce que ceux qui tiennent des propos haineux au sujet de l'orientation sexuelle ou l'identité du genre aient à répondre de leurs actes (A/HRC/29/23, par. 78 et 79).

613. Il demande aux autorités tunisiennes de prendre des mesures pour établir un environnement propice à l'exercice des droits à la liberté d'expression, de manifestation et de réunion pacifique, en conformité avec les articles 19, 21 et 22 du PIDCP ratifié par la Tunisie le 18 mars 1969.

Visite de pays

614. Le Rapporteur spécial remercie le Gouvernement tunisien pour son invitation à effectuer une visite de pays reçue le 12 décembre 2011.

Yemen

615. JAL Case no. YEM 2/2016 State reply : None Allegations of harassment and arbitrary arrest of a human rights defender, as well as of a smear campaign on the Internet against him and a non-governmental organisation.

Observations

Responses to communications

616. The Special Rapporteur regrets that no response was received to date relating to the allegations contained in his communication. He considers responses to the questions raised in his communications as an important part of the cooperation of Governments with his mandate, in accordance with Human Rights Council resolutions 24/5 (2013), 21/16 (2012)

and 15/21 (2010). In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in his communication.

Environment in which these rights are exercised

617. The Special Rapporteur reiterates his concerns about the repeated harassment and allegedly arbitrary arrests of Mr. Abdulrasheed Al-Faqih as measures of retaliation and intimidation against his legitimate and peaceful human rights work at the Mwatana Organisation for Human Rights. He further stresses his concerns at the smear campaign on the Internet directed at Mr. Al-Faqih and the Mwatana Organisation for Human Rights and the deterrent effect it may have on the rights to freedom of expression and freedom of association.

618. He reiterates his recommendation to the Government to put in place an enabling and safe environment that is conducive to the free expression of civil society and political activists allowing individuals to exercise their legitimate freedom of association without undue hindrances. He calls upon the authorities of Yemen to investigate any allegations of human rights violations, including acts of intimidation or harassment, committed against those exercising their rights to freedom of peaceful assembly and of association.

VII. Other

619. JAL Case no. OTH 16/2016 reply: 23/05/2016 Alleged blocking of consultative status of a non-governmental organization working on caste-based discrimination by a member of the ECOSOC Committee on NGOs.

620. JOL Case no. OTH 2/2017 reply: None Letter to the National Human Rights Commission (NHRC) of India in relation to various developments regarding the Foreign Contribution Regulation Act (FCRA) and its adverse impact on the rights and work of a number of human rights defenders in India.

621. PR 6/3/2016 Inter-American Commission on Human Rights financial crisis

622. PR 6/17/2016 Fundamentalist intolerance is degrading assembly and association rights worldwide – UN expert

623. PR 10/21/2016 Pursuit of profit and corporate power undermine workers' assembly and association rights, warns UN expert

624. PR Human rights under increasing attack worldwide

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his mission to the United Kingdom of Great Britain and Northern Ireland: comments by the State*

* Reproduced as received.

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I. Freedom of association

A. Countering extremism and terrorism

1. Prevent Strategy

7. The Prevent strategy (2) is the second pillar of CONTEST, the State's counter-terrorism strategy. (3) A first version of CONTEST was published in 2006. Prevent aims at "(a) respond[ing] to the ideological challenge [the country] face[s] from terrorism and aspects of extremism, and the threat [it] face[s] from those who promote these views, (b) provid[ing] practical help to prevent people from being drawn into terrorism and ensure they are given appropriate advice and support; and (c) work[ing] with a wide range of sectors (including education, criminal justice, faith, charities, online and health) where there are risks of radicalisation that [the authoritities] need to deal with".(4) Prevent focuses on individuals and groups who "vocal[ly] or active[ly] oppos[e] fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs"(5) and who are seen as being predisposed to respond positively to terrorist ideologies.

The quote is taken from the Government's Prevent duty guidance but is however out of context in that it describes how the UK defines extremism rather than a description of the types of individuals that Prevent focuses on.

Prevent is concerned with challenging extremist ideas where they are used to legitimise terrorism and are shared by terrorist groups. However, that isn't the framework used to identify individuals to focus on for support/interventions.

9. For example, the duty imposed on certain categories of public officials, including teachers, to observe, record and report individuals they may consider "extremist" has led to undue restrictions on student union activities and the singling out of students from minority communities. In one instance, a 17-year old student was targeted as he expressed his solidarity with the people of the State of Palestine by wearing a Palestine badge and scarf and distributing leaflets on the humanitarian situation there. The student was referred to the authorities under the Prevent strategy, and two police officers subsequently came to his house to question him on his views on Palestine, Israel and the Middle East.6 In addition, environmentalists, anti-capitalist groups and some Members of Parliament have reportedly been provided as examples of extremists in Prevent trainings.

The Prevent duty requires governing bodies to 'have due regard to the need to prevent people from being drawn into terrorism'. The duty is not on individual teachers.

The school involved has specifically and publicly denied the claims that the student was referred to Prevent because he was wearing a badge supporting Palestine. Please see link below for further information:

http://www.lutontoday.co.uk/news/education/challney-boys-denies-claims-student-was-referred-to-prevent-for-wearing-free-palestine-badge-1-7219114

12. Third, the Prevent strategy draws a nearly automatic link between extremism and terrorism. However, British law makes a clear distinction between the two. The 2000 Terrorism Act defines terrorism as the "use or threat of action… designed to influence the Government… or to intimidate the public or a section of the public… for the purpose of advancing a political, religious or ideological cause".13 "Extremism," meanwhile, is vaguely defined in Prevent as "opposition to British values."

Prevent does not draw an automatic link and no evidence is provided to support this conclusion.

14. Overall, it appears that Prevent is having the opposite of its intended effect: by dividing, stigmatizing and alienating segments of the population, Prevent could end up promoting extremism, rather than countering it. The Special Rapporteur was disappointed to learn that the Government announced in October 2016, following an internal review, that Prevent should be strengthened. There was reportedly no public consultation around this review, which he considers particularly troubling in light of the public concerns voiced by several stakeholders. He reiterates the call made by the Independent Reviewer of Terrorism Legislation, the parliamentary Joint Committee on Human Rights, the United Nations Committee on the Rights of the Child, and several civil society actors, for an independent review of the strategy to be completed. Inputs from all relevant stakeholders should be sought in such processes.

The UK Government would like to make clear that there is no evidence provided to support the conclusion that, overall, this is the case.

No account has been provided in the report of the positive influence of Prevent, for example in the 2015 CONTEST report to Parliament it was highlighted that:

- Over 1000 people supported through Channel
- Over 150 journeys to Syria prevented in 2015;
- Over 75,000 people have been engaged through Prevent community projects or by Prevent coordinators in 2015

2. Counter-Extremism and Safeguarding Bill

15. The Special Rapporteur expresses similar concern about the Counter-Extremism and Safeguarding Bill. It was originally introduced in 2015 as the Counter-Extremism Bill, and later renamed. The Bill may authorize the issuance of civil orders to, inter alia, ban non-violent extremist groups, stop individuals engaging in extremist behaviour and close down premises used to support extremists.

16. Initially, the Special Rapporteur is troubled that the Bill apparently seeks to use civil orders with a view to circumventing the opening of criminal cases, which have a higher standard of proof. Even more problematic, however, is the intrinsic vagueness of the term "non-violent extremism" that the Bill targets. Government officials themselves seemed to have trouble defining the term, which signals vast potential for arbitrary and abusive interpretation. The Special Rapporteur cautions the Government to carefully consider the negative unintended consequences of such provisions. It is indeed difficult to define the term "non-violent extremist" without treading into the territory of policing thought and opinion. Innocent individuals will be targeted. Many more will fear that they may be targeted – whether because of their skin colour, religion or political persuasion – and be fearful of exercising their rights. Both outcomes are unacceptable.

17. It is the duty of the Government – and indeed of all States – to do all it can to prevent, limit and mitigate potential terrorist attacks that could arise from extremism. The Special Rapporteur believes that the existing legal framework is robust enough to deal with any issues of extremism and related intolerance that could give rise to terrorism. In this regard, he echoes the findings of the Joint Committee on Human Rights which stated that the "Government should not legislate, least of all in areas which impinge on human rights, unless there is a clear gap in the existing legal framework. The Government has not been able to demonstrate that such a gap exists. We therefore take the view that the Government has not demonstrated a need for new legislation. The current counter-terrorism, public order and equality legislation form a comprehensive framework which

deals appropriately with those who promote violence. There is a danger that any new legislation may prove counter-productive".

To clarify. In 2015, the Government announced the introduction of a Extremism Bill, however this Bill was not introduced and there has been no announcement when legislation might be expected. Following the June 2017 General Election, the new Government will publish its legislative programme.

C. Trade Unionism

44. The Government subsequently addressed a number of issues following consultation with various stakeholders. Consideration of their views resulted in a number of proposals not being included in the Bill, including a requirement for the, annual reporting of picketing and protesting activities and for detailed plans about pickets and social media campaigns to be published two weeks in advance. This is most welcome. The Special Rapporteur urges the Government not to reintroduce these provisions in the future.

In addition, the Government has consulted on plans to allow employers to hire agency staff to replace some striking workers and the Government is considering the responses.

46. Parts of the Act also unduly restrict picketing. Under the Act, a union must appoint a picket supervisor whose name and contact details must be shared with the police.(55) Furthermore, under the Act, the Certification Officer, a statutory office holder responsible for regulating trade unions is granted broader powers to investigate union's affairs,56 and access confidential records, such as names and addresses of union members.57 Finally, the Act does not recognize the use of electronic balloting for industrial action and strikes, something that has been long requested by unions. Rather, it allows only for the study of electronic balloting, via an independent review of the possibility of fraud or hacking.58 The review was announced in November 2016, and a call for evidence was made in March 2017. The outcome of this review will later be presented before Parliament.

We would like to clarify that parts of the Act also introduce new picketing requirements which are derived from the Code of Practice on Picketing which has been used by trade unions since 1992. The Code recommended and the Act now provides that unduly restrict picketing. Furthermore, under the Act, the Certification Officer, a statutory office holder responsible for regulating trade unions is granted broader powers to investigate union's business practices to ensure effective regulation of trade unions. A further power (not yet in force) will require unions to pay partial costs (a levy) towards the Certification Officer

The Act allows for an independent review of electronic balloting, in the round including the security of technology. The review was announced in November 2016, and a call for evidence was made in March 2017 – because of the General Election recently called in the UK, the call for evidence will now close on 14 July 2017. The outcome of this review will be laid in Parliament before the end of 2017.

47. The Special Rapporteur regrets that the Government decided to rush the Bill to Parliament, despite admissions from officials that they anticipated extensive litigation over various provisions. He finds such an approach vexing, because the process of drafting legislation should be a meticulous one, where time is taken to ensure inclusiveness, clarity and conformity with other laws. He calls on the Government to amend the Trade Union Act with a view to ensuring its full compliance with international labour rights norms and standards.

III. Freedom of peaceful assembly

B. Other issues of Concern

1. Restrictions on-organisation of protests

60. The Special Rapporteur also learnt that the London Metropolitan Police had imposed additional costs on protest organizers to cover expenses related to security of businesses and traffic management and instructed them to hire stewards for the planned protest. He underscores that "[t]he State's obligation to facilitate [protests] includes the responsibility to provide basic services, including traffic management.... Organizers should not be held responsible for the provision of such services, nor should they be required to contribute to the cost of their provision.

The London Metropolitan Police Service neither charges nor has charged organisers for the policing of protests

3. Resort to mass arrests, stop and search powers and dispersal powers

67. The Special Rapporteur raised these issues with the authorities and was informed that in 2014, the Home Office and the College of Policing launched the Best Use of Stop and Search Scheme, which aims at a more strategic use of the practice across England and Wales. One of the features of this Scheme is to reduce 'no suspicion' stop and searches under Section 60 of the Criminal Justice and Public Order Act 1994. He was further informed that when a person is stopped and searched in the context of a protest his or her name, age and address are not taken, but only information on his/her ethnic group is collected. Despite such assurances, the Special Rapporteur underscores the chilling effect of such practice among protestors. He recalls that "[s]top-and-search must not be arbitrary and must not violate the principle of non-discrimination. It must be authorized by law, necessary and proportionate. The mere fact that an individual is participating in a peaceful assembly does not constitute reasonable grounds for conducting a search" (82)

All 43 Home Office forces, with the addition of the British Transport Police, voluntarily adopted the Best Use of Stop and Search Scheme.

One of the features of this Scheme is to reduce 'no suspicion' stop and searches under Section 60 of the Criminal Justice and Public Order Act 1994. This power can be authorised for a period of time in a particular location where there has been, or there may be, incidents involving serious acts of violence or persons are carrying dangerous instruments or offensive weapons without good reason.

When a person is stopped and searched under this legislation or any other stop and search power in the context of a protest or otherwise, the statutory Code of Practice that applies in these cases is explicit that they are under no obligation to provide any personal details, such as a name, age and address. The Code also goes on to say that "the person should not be asked to provide this information for the purpose of completing the record" [of the search]. Officers will record the self defined ethnicity of the person or, where this is not given, the officer will record their defined ethnicity as observed. This is required by legislation for racial equality monitoring purposes.